



## **Making a Fresh Start**

# **Fair Access and Managed Move Protocols**

**Final June 2013**  
***Updated April 2016 (in italics)***

# Making a Fresh Start

## Fair Access Protocol 2013

A Fair Access Protocol provides an agreed way for schools, academies and the Local Authority to work collaboratively and in a co-ordinated way to address the needs of children requiring a school place – many of these will be vulnerable children who may have previously been considered as “hard to place” and who need speedy admission. The Protocol takes into account the needs of the child and those of the school. The Protocol sets out the expectations of all parties.

The aims of the Fair Access Protocol are to:-

- Secure appropriate education provision for vulnerable young people not on the roll of a school or pupil referral unit or those pupils needing a fresh start as quickly as possible
- Reduce the amount of time that young people spend out of school or educational provision
- Ensure that schools take their fair share of pupils through fair and transparent procedures and monitoring arrangements
- Avoid the need for directed admissions to schools

The Southend Fair Access Protocol was last revised in May 2007 and has been updated to be in line with the 2012 Admissions Code and the non statutory guidance from the DfE “ Fair Access Protocols, Principles and Processes “ November 2012. There was a wide consultation and meetings with headteachers in January/February 2013 and there were no objections to the Protocol. This final Protocol takes account of all the feedback and amendments following the discussions

### 1. Legislative Framework

The 2012 revised Admissions Code restates the principles and scope of Fair Access Protocols and that all admission authorities must participate. In addition the DfE has issued further non statutory guidance in November 2012.

The 2012 Admissions Code states that:-

- 1.1 *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.*

- 1.2 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.*
- 1.3 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.*
- 1.4 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. The use of this provision will depend on local circumstances and must be described in the local authority's Fair Access 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.*
- 1.5 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.*
- 1.6 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*
- 1.7 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*
  - g) Children with special educational needs, disabilities or medical conditions (but without statement)*

The following principles underpin the use of the protocol and are necessary for

## **2. Main Principles**

the scheme to be successful:-

- We, schools and the Local Authority together, must strive to ensure that every child can access a local Southend school that meets their needs
- All Primary and Secondary Schools, Academies and the Pupil Referral Unit will participate. It is binding on all schools. The protocol does not apply to Special Schools
- All schools will be treated in a fair, equitable and consistent manner
- Schools will continue to admit pupils under normal in year admission arrangements
- Due regard to the admission criteria of the school will be given when making a placement decision such as academic selection or faith
- The placement will be based on criteria and the assessed need of the individual child
- There is no duty to comply with parental preference when allocating places through the Protocol but it is expected that the wishes of the parents are taken into account. The Fair access Protocol should not be used as a means to circumvent the normal in year admissions. A parent can apply for a place at a school as an in year admission at any point and is entitled to an appeal if a place cannot be offered. If there are places at the school and the parent has requested this school in their application, then under normal in year admissions, the Admissions Code states that the child must be admitted without delay.
- Schools cannot say that they are oversubscribed in any year group or refuse if they are asked to admit under the Protocol. Fair Access placements take priority for admission over others on a waiting list. Schools may be expected to go over numbers ( KS2 onwards) in a year group in order to secure the best placement Any genuine concerns about the admission expressed by the school will be taken into consideration e.g. previous involvement or serious breakdown in relationships between the school and the family
- Only in exceptional circumstances would a school refuse admission under the Protocol– these may include a school being in special measures or having recently admitted several children under the Protocol, although the Fair Access Panel will have taken these factors into account
- Schools will not normally be asked to admit two pupils in quick succession in the same year group
- It is expected that all parties will act with a sense of urgency to identify a school place for a child who needs one under the Protocol. Schools will be expected to respond to requests by the Local Authority to admit under the Protocol within 7days and that the pupil will be admitted within 15 school days of the decision of the Fair Access Panel
- Schools will receive full information about the child prior to admission under the Protocol either from the previous school or from the Pupil Referral Unit

using a pro forma

- The Fair Access Panel should give consideration to the education provision being put into place while the pupil is waiting for admission to school.
- All schools will receive termly updates on numbers of children admitted under the Protocol and headteachers can scrutinise officer decisions. There will be an annual report to the Admissions Forum of all Fair Access admissions including Managed Moves. Performance will be measured on the number of children without a school place who are admitted to school within 20 school days.

### 3. **Scope – children covered under Fair Access Protocol**

Resorting to the Fair Access Protocol should not be automatic when admission to school can and should be dealt with under normal admission arrangements, nor should it wait for a panel to be convened if it can be dealt with more quickly. The following categories of children will be considered under the Protocol incorporating those recommended in the Admissions Code. The Protocol does **not** apply to Looked After Children or children with statements of Special Educational Needs naming the school as they must be admitted.

- Young People returning to school from the criminal justice system who need to be reintegrated. Schools are advised to retain young people on the roll of the school if the sentence is 8 months or less given that the sentence is likely to end after 4 months in these cases. The young person should return to their school. Permanently excluded pupils requiring a fresh start either directly from the excluding school or reintegrating from the Pupil Referral Unit or who move into the area having previously been excluded from a school in another Local Authority area
- Pupils who are at the **point** of permanent exclusion for whom a Managed Move is agreed as an alternative to the exclusion or who are reintegrating from the Pupil Referral Unit. These count towards a school's Fair Access Admissions (see separate draft guidance on Managed Moves). These pupils generally have Behavioural, Emotional and Social challenges.
- New arrivals in Borough who have not secured a school place through normal admissions
- Children who have been out of education for 2 months e.g. returning to school from Elective Home Education for whom finding a school place has been difficult Young Carers
- Children of Roma, Gypsies, Travellers, refugees and asylum seekers
- Homeless children

- Children from an unsupportive family background for whom a place has not been sought – these may be brought to our attention from a range of agencies Children with Special Educational Needs, disabilities or medical conditions (but without a statement)
- Children subject to multiple moves of schools
- Any other exceptional case as determined by the Fair Access Panel

#### 4. **Criteria for decisions about Placements**

The criteria to inform decisions about placements will take account of the following :

- The number of fair access admissions to the school over the last 12 months
- The number on roll in the year group and in the school overall
- Which school has had the most recent admission – taking turns where possible Any known issues in a year group e.g. large number of pupils with particular difficulties or known associations between pupils
- The school's admission criteria e.g. ability, faith
- Any previous breakdown of relationships between parents and the school
- Distance to school for the pupil – transport will be allocated if the distance criteria are met
- Any other contextual information that is relevant eg; siblings or challenges for schools in Special Measures

#### 5. **Operation of the protocol – Proposals for consideration:** *(see changes in italics)*

The involvement of headteachers in the decision making is key to the success of the implementation of the Protocol. They are best placed to assess need and secure the best place for a child. The following arrangements have been agreed :-

- a) A Fair Access Panel (formerly COOS – Children out of School) will meet twice every half term. The panel will be chaired by a headteacher. The panel will oversee the Fair Access arrangements and agree placements under the Protocol. The panel will also scrutinise officer decisions that may have taken place in between panel meetings. The panel will also monitor applications and admissions of Looked After Children as well as the number of Managed Moves in Borough.
- b) There will be one Borough wide panel with a 2 part meeting for primary and secondary placement decisions.

Headteachers will take turns to attend the panel for a term at a time to ensure full engagement in the process. Nominations to attend will come via SOPHA and SOSSHA

- c) 2 officers have the authority to make Fair Access decisions in between panel meetings. This is in the interest of reducing the time that children are out of

school. These two officers are the Group Manager, SEN and Inclusion and the Group Manager *Access and Inclusion*, who will meet to review cases and make joint decisions.

d) The Fair Access Panel will consist of:-

- the Group Manager SEN and Inclusion
- the Group Manager *Access and Inclusion*
- the Executive Headteacher for Southend's BESD college
- 2 Secondary Headteachers
- 3 Primary Headteachers, one from each locality area
- 1 Locality Manager
- 1 Educational Psychologist
- 1 Integrated Youth Support Services representative
- 1 Representative of Looked After Children

Other than the headteacher representatives it is hoped that all other members of the panel will remain consistent and not change throughout an academic year

*In April 2016 Fair Access members agreed to amend the membership arrangements to increase greater collaboration and transparency around decision making. It was agreed that meetings would continue to be monthly and run as a two part, borough wide panel, inviting:*

- *all primary Head Teachers local to the child's home address (usually < 2 mile radius).*
- *all secondary Head teachers*

## **6. Funding** *(see changes in italics)*

~~Funding may be available to support pupils who are admitted under the Protocol. This will be met through funding agreed by the Schools' Forum of £50,000 for 2013/14. The level of funding (if any) will be determined by the Fair Access Panel according to need, but broadly as follows;~~

~~£4000 for a pupil who will require an intensive support programme for example a permanently excluded pupil. This is in addition to the transfer of the balance of AWPU funding when a pupil is permanently excluded.~~

~~£3000 for a pupil with moderate support needs for a short period of time priority may be given to pupils in Key Stage 4 and Year 6 to recognise their transition needs~~

~~£1000 for a pupil for whom some support for a short term is envisaged.~~

~~The amount allocated is a one off amount paid when the pupil is admitted. This enables the school to put in place support arrangements for a period of time.~~

*After further consultation with HT's in March 2014 it was agreed to remove the DSG funding available for FAP placements and use this money along with other components to form the budget for the Outreach Service for Behaviour*

*and reintegration Support SLA with Seabrook College.*

## **7. Managed Moves**

A managed move is one of a range of strategies available to schools to address behaviour difficulties and can be offered as an alternative to permanent exclusion. See the separate protocol for Managed Moves. As a result of the consultation it was agreed with headteachers that there will be 2 types of Managed Moves.

The first is where a school and parents feel that a change of school might benefit the pupil as a strategy to address issues such as poor behaviour or persistent non-compliance with school policy – it is not for the pupil who is at the **point** of permanent exclusion. In this case the Managed Move will be arranged directly between headteachers with the consent of parents. Often a trial period is agreed of up to 6 weeks, but this may not be long enough, so it can be based on individual needs. The pupil remains on roll at the home school till the end of the trial period. If the move is unsuccessful, then the pupil returns to their home school. If the move is successful it becomes permanent. Any transfer of AWPU funding is agreed between the 2 headteachers. This type of move does not count towards the receiving school's Fair Access total.

The second type of Managed Move is when a pupil is at the **point** of permanent exclusion and a change of school is offered as an alternative option. In this case the Headteacher should discuss the case and the strategies tried in the school with the Local Authority officer prior to the decision to permanently exclude. Once arranged this Managed Move will count as a Fair Access admission. There is no trial period and the pupil goes on roll at the new school. In this scenario the School Forum agreed in January 2013 that the balance of AWPU should transfer either to the Local Authority if the pupil is to move to the new BESD college for a period of time, or to the receiving school in the same way that it would if it been a permanent exclusion. This is to support the pupil's reintegration plan into the new school. The Fair Access panel may also allocate some funding to support the pupil for a short period of time.

## **8. Year 11 pupils requiring a school place**

Each year there are a number of new arrivals in Year 11 and there is a need to clarify the admission arrangements for some of these young people who may be considered "hard to place".

In many cases pupils will have moved with their families for good reason and may be able to fit into existing programmes or courses in schools. In this case these pupils are not hard to place. Normal admission procedures should apply and they should be offered a place as quickly as possible. For year 11 pupils who arrive in the Autumn term offering a school place should be possible with schools able to arrange a suitable programme.

For others their needs may be complex and they may have little or no previous preparation for GCSE. They may also arrive post January. In this case the pupil



may be admitted to the BESD college where they would be assessed and an appropriate offer of Alternative Provision planned with the aim of securing good progression routes into post 16 learning.

In all cases Connexions advice would be needed to ensure appropriate progression routes into post 16 learning.

Year 11 new arrivals with EAL will be directed towards those schools that have developed particular expertise in this area.

During the consultation headteachers felt that permanent exclusions of year 11 pupils should not be necessary and that the school or the BESD college should seek an alternative option.

## **9. Review of the Protocol**

There will be an annual review of the Protocol based on feedback from headteachers together with a report on the implementation of the Fair Access Protocol.

Government guidance suggests that, in the event that the majority of schools in the area no longer support the principles and approach of the Fair Access Protocol, that all school headteachers should initiate a review with the Local Authority. The existing Protocol will remain binding on schools until a new one is adopted.

Directing a school to admit a pupil is always a last resort and the Local Authority would strive to resolve difficulties locally through discussion, negotiation and mediation and through listening to the case for refusal that the school or academy is putting forward. Before considering a direction, the Local Authority would also need to ensure that the provisions of the Fair Access Protocol have been applied in a fair, consistent and appropriate way and that the request to admit the pupil was a reasonable one. The Local Authority would then follow the relevant procedures for direction to a Voluntary Aided School, a Foundation School or an Academy. In the case of an Academy this would involve requesting a direction from the Education Funding Agency acting on behalf of the Secretary of State

## Southend Borough Council

### Protocol for a Managed Move as an alternative to Permanent exclusion

#### Introduction

A Managed Move is one of a possible range of strategies where there have been difficulties with a pupil's behaviour over a period of time. It is an alternative to a permanent exclusion. For many pupils a fresh start in a new school can have positive influences on behaviour and attitudes and every child should have another chance.

A Managed Move should only be proposed with the full knowledge and co-operation of all the parties involved- parents/carers, pupil and headteachers. A Managed Move would generally only be explored when difficulties in school suggest that the pupil is at the **point** of permanent exclusion after a full range of strategies have been tried. A managed move is **not**

A suggestion that parents should look for a new school “in the best interests of the child”

Where parents/carers exercise their legal rights to express a preference for another school

Parents often ask “should I agree to a Managed Move instead of a permanent exclusion?” The result is the same – the child moves school. Parents often prefer a Managed Move as it avoids having a permanent exclusion on their child's school record and the feelings of rejection associated with that. However if parents want to challenge the position and refuse it and the permanent exclusion proceeds then they would have the opportunity to have their case heard by governors. They would also have the right of appeal to an Independent Review Panel. There is no right of appeal against a Managed Move. However it is important to stress that a Managed Move should be seen as a planned and positive fresh start.

#### Criteria and Evidence

The school would be expected to demonstrate that the criteria for a permanent exclusion had been met and that the evidence for this would be the same as that required by a governor's discipline committee meeting to hear a permanent exclusion. Support strategies and processes to identify the barriers to learning could include the following, although this is not an exhaustive list, and much depends on how the school organises it's in school learning and behaviour provision :-

- On or off site learning units
- Nurture arrangements
- Change of class/ tutor groups

- Alternative curriculum/timetable
- Internal seclusion
- Risk assessment and plans
- A Common Assessment Framework (CAF) is in place that is active and has been reviewed with support from other agencies for example CAMHS and with the involvement of the parent
- Educational Psychologist and other services' reports and advice such as the
- Behaviour Outreach Service
- The pupil has been at School Action Plus for 2 terms with IEPs or behaviour plans reviewed and advice from the Educational Psychology Service and/or
- Behaviour Support Service implemented
- Restorative justice approaches
- Possible short term preventative placement at the BESD College.

However it is also recognised that there may be exceptional circumstances, or a one off incident, when a permanent exclusion is the proposed response to a serious breach of the school's discipline policy or where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school. It may be that in these cases the above strategies may not have been fully implemented but again the evidence must be sufficient to warrant a permanent exclusion.

### **The Process**

1. The headteacher is advised to discuss the potential permanent exclusion and alternative options with the Group Manager for SEN and Inclusion . Any resulting Managed Move would then be counted under the Fair Access Protocol Telephone 01702 534395 or 07901009156
2. The headteacher explores options and contacts a potential receiving school.
3. The headteacher calls a meeting with the parents/carers to discuss the possibility of a Managed Move. The meeting is an opportunity to share information and concerns in an open and nonjudgmental way and discuss the move as a positive process. The meeting will aim to :-
  - Agree the rationale for the Managed Move, the strategies already put in place and the pupil's response
  - Explore whether any other strategies could be tried
  - Discuss the pupil's strengths
  - Explore which mainstream school might best meet the child's needs and could be approached
4. The identification of a receiving school should take account of
  - Parental preference where possible
  - Admission criteria for the school
  - Distance
  - Recent numbers of admissions by the Fair Access Panel in the year group and whether the year group or class has a disproportionately high number of pupils

with challenging behaviour

5. There should then be a meeting between the receiving school and the sending school to
  - ensure full exchange of information- pupil's strengths, academic progress, attendance, strategies tried, risk assessments
  - to identify the potential support arrangements that would need to be in place. agree the starting date and the length of the trial period ( if any is agreed) with review dates
  - draw up a reintegration plan to include areas such as pastoral support, phased reintegration, new risk assessment, involvement of external agencies communication with staff in the receiving school
  
6. Funding-This type of managed move is an alternative to permanent exclusion and seen as a positive fresh start and is a permanent move. Because it would have been a permanent exclusion it has been agreed by the Schools Forum that the pro rata balance of AWPU will transfer from the sending school's budget either directly to the receiving school or initially to the BESD College to support the reintegration plans for the pupil and then on to the receiving school at a later stage. The Fair Access panel may also allocate some support funding. This Managed Move will count towards the receiving school's Fair Access total.