

Department of Children's Services

Aiming High for Children

Education, Employment and Skills

1st Floor
Margaret McMillan Tower
Princes Way
Bradford, BD1 1NN

Tel: 01274 439215

E-Mail: rachel.phillips@bradford.gov.uk

Date: 07 September 2016

Dear Colleague

Please find attached a copy of the Fair Access Protocol, which we are consulting on City wide with all Primary and Secondary schools and Academies.

The document was previously circulated at a meeting of Secondary headteachers before the summer break and initial feedback has been supportive.

Under the School Admissions Code of Practice, every Local Authority must have a Protocol in place which has been agreed by the majority of schools within the LA. As the previous Protocol has not been reviewed for a number of years we felt it appropriate to do so at this time and to try and build on the exceptional work that the previous Task Groups have undertaken.

It is important to move the agenda forward and to put the Protocol, the way that it works and the recording of meetings, onto a more formal footing. We are held to account as to how and why these decisions are made by parents, Fair Access Independent Appeal Panels, the Schools Adjudicator, Local Ombudsman and the Education Funding Agency as well as other schools who these decisions affect.

We look forward to continuing to work in partnership with you as we move this challenging agenda forward. Thank you for your continued support.

Please send your feedback to Rachel.phillips@bradford.gov.uk or call me on 01274 439215 to discuss any concerns or suggestions that you have.

Yours sincerely



Rachel Phillips
Admissions Manager

Department of Children's Services

**City of Bradford MDC – Children's Services
Fair Access Protocol for Children and Young People****Purpose**

This Protocol will ensure that school places for maintained schools and Academies are allocated and offered in an open and fair way. Outside the normal admissions round, unplaced children (especially the most vulnerable), must be offered a place at a suitable school as quickly as possible. It is recognised that this will have a significant impact on attendance and consequently how well young people perform at all levels of learning.

The School Admission Code which came into force on 1st December 2014 amends the mandatory categories of the Fair Access Protocol and how it is implemented. The outlined process reflects the requirements of that Code. The Protocol must be agreed by the majority of schools and academies and all schools and academies must participate.

The Protocol will be used when an 'eligible' child or young person has not secured a school or academy place under the in year admission procedures. The aim is to secure a place at a suitable school or academy as quickly as possible and although 30 school days is the maximum stated in this protocol our intention is to act as quickly as possible.

The Protocol will also ensure that no school or academy, including those with available places, is asked to take a disproportionate number of children and young people who have been excluded from other schools or academies or who have challenging behaviour.

Once it has been agreed that a child or young person should attend a named school or academy that school or academy must be accountable for that person. There is a collective responsibility to ensure the safeguarding of all young people and we must work together to protect them and act in their best interests. Every young person will be made an offer of an educational place if an accessible educational place does not already exist.

The Process

The Fair Access Protocol must be agreed with the majority of schools in Bradford and all Admission Authorities must participate in it to ensure that children and young people are allocated a school place quickly.

The operation of the Protocol is triggered when a parent of an eligible child has not secured a school place under in-year admission arrangements. Where a Governing Body does not wish to admit a child with challenging behaviour outside the normal admission round, even though places are available, it must refer the child to the Local Authority for action under the Protocol. This will normally only be appropriate where a school has a particularly high proportion of children with challenging behaviour or previously excluded children. This provision does not apply to: children looked after by the local authority; a child previously looked after by the local authority or a child with a statement of special educational needs naming the school in question, as these children must be admitted. (Appendix A).

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.

Department of Children's Services

No school will be asked to take a disproportionate number of children who have been excluded from other schools or who have challenging behaviour.

A list of children and young people that are 'eligible' to be considered is contained at the end of the Protocol.

The Secondary Protocol will be administered through three Fair Access Panels that are based on the geography of Bradford. The operation of these Panels is described below.

The Primary Protocol will be administered through Fair Access Panels on an ad hoc basis. The operation of these Panels is described below.

Membership of the Fair Access Panels

The Secondary Panels consist of Chair of the Fair Access Panel, Headteachers, or their representatives, and the Local Authority representative. Other Council officers attending will be from teams within Children's Services - Education, Employment & Skills as well as any other team or department within CBMDC or outside agencies working with families and young people, to contribute specific information about children and families that they are working with.

The Primary Panels meet as and when required and the membership consists of the Local Authority representative, the Headteachers of the preferred school/academy plus any other local schools as well as the current school (if appropriate). Other Council officers attending will be from teams within Children's Services - Education, Employment & Skills as well as any other team or department within CBMDC or outside agencies working with families and young people, to contribute specific information about children and families that they are working with.

For Secondary Panels the attendance of Chair of the Fair Access Panel and the Local Authority representative will make the meeting quorate and decisions will be made regarding the destination of the students referred to Panel. Allocations will be made to schools, regardless of whether they attend the meeting, if appropriate and offers made on the day will be binding unless exceptional circumstances or a safeguarding issue comes to light.

The Local Authority representative will usually be the Fair Access Officer but a stand-in may be required from time to time from CBMDC - Children's Services.

Accountability

The school/academy nominated by a Panel will be accountable for the young person once a school place has been agreed at the meeting. Meetings will be held monthly, or as near as possible, accommodating school terms and school holidays. Meeting dates will be agreed in advance of the academic year. Minutes will be kept as a record of each meeting. The Fair Access Panel will provide a minute taker.

Department of Children's Services

Timelines

Each case, where a young person is not on the roll of a school/academy or other educational provision, will be resolved within a maximum of 30 school days of the refusal by the preferred school/academy being received by the Admissions Team, by the young person being on the roll of an educational provider unless there are documented and agreed reasons between the Local Authority and the Fair Access Panel as to why it is not possible for this to happen, when an exception can be made. Every effort must be made to keep the time out of education to a minimum.

In compliance with the Pupil Registration Regulations the Local Authority must notify the school/academy of the date by which the child is to be admitted and on the school roll.

Decision Making

Children and young people will only be referred to Panel for placement once the school/academy preferred by the family has confirmed to the Local Authority that it is not able to offer a place and the young person is eligible to be considered under the Protocol. The refusal must include an explanation of why the young person cannot be admitted with regard to the prejudice of efficient education and efficient use of resources. (Appendix B).

Where a Fair Access Panel judges that a child is not yet ready for mainstream provision, based on the information provided, they will allocate a school roll and will consider which provisions are appropriate. If the Panel believe that mainstream provision is not appropriate the case will be referred to the Behaviour & Attendance Collaborative for consideration of a place at Central PRU, Alternative Provision or the Junction. The school is responsible for securing appropriate full-time educational provision.

The decision as to which school/academy will be offered to a child will be taken by the Fair Access Panel as a whole. Where a Panel fails to make a decision the Local Authority will do so.

Every young person whose nearest school/academy (rather than the home address) is within the Fair Access Panel area must be made an offer of educational provision at a school within that Panel area. No young person will go without an offer of educational provision unless the Panel deems that appropriate, accessible educational provision is already in place. If the Local Authority can demonstrate that a school/academy outside the Panel area is more appropriate and accessible, then that school/academy will be asked to make an offer. (Appendix C).

Children returning from Elective Home Education should be offered a place at the school which they previously attended. If the child now lives outside of the previous school's Panel area and there is a more appropriate or accessible school within a different area, a managed move should be considered once the child is back on roll at their previous school unless there are exceptional circumstances which would prevent a return to that school e.g. safeguarding issues.

Department of Children's Services

Children returning to an area in which they previously lived, should be offered a place at the school which they previously attended, unless they left due to extended leave when it is up to the Panel to determine if this is appropriate. The Panel may also consider previous attendance, behaviour and any safeguarding issues in their decision making. This only applies to children continuing in the same phase of education.

Children who are referred to a Fair Access Panel due to being out of education for two months or more will be referred because they have not accessed any education at all, anywhere.

Record Keeping

The minutes of the Panel meeting will be agreed as a correct record of the proceedings five school days after distribution. Schools/Academies, Chairs of the Fair Access Panels and the Local Authority should all keep a record of the outcomes of the meetings to avoid any disputes and advise of any issues within five school days of distribution.

Each young person that is referred to the Panel will be discussed individually and the decision will be made by the Fair Access Panel as to what they determine is in the child's best interests taking parental preference into consideration and the facts of each case. The decision and the reason for it must be clearly recorded. (Appendix B).

Siblings

Where applications are received for siblings of young people that are to be referred to a Panel, then all sibling applications will be considered by the Panel at the same time. The non-Fair Access sibling may be allocated a place at the same school/academy if the Panel agree.

Notification of Decision

In all cases the decision made by the Fair Access Panel will be relayed in writing to the parent/carer of the young person and the school/academy will contact the family to facilitate a speedy reintegration unless agreed otherwise with the Fair Access Officer or Head of Service – Admissions.

Where a young person is to be offered a school/academy, the school/academy must meet with the parent/carer of the young person and start the reintegration of the young person no later than ten school days after the Fair Access Panel meeting.

Where a school/academy wishes to take the papers away for them to seek further information and consideration, an answer must be provided to the Fair Access Officer within five school days. Should the school/academy feel unable to offer a place, they must provide clear reasons, in writing, for the refusal. An alternative placement may then be agreed between the Chair of the Panel and the Local Authority or an instruction to admit may be issued. This action will only be agreed in exceptional circumstances and where a school can demonstrate a high level of concern regarding the admission of an individual student.

If it is necessary to hold a multi-agency meeting before a decision can be made, the school/academy must do so within 10 school days of the panel meeting.

Department of Children's Services

The Admissions Team will inform parents of the progress of their case until a start date at an educational provision has been agreed. It is then the responsibility of the educational provider to liaise with the parent/carer.

Every child must be on the roll of an educational provision within 30 school days of the school referring the transfer request to the Admissions Team for the Fair Access Panel.

Local Authority Instruction

If a Fair Access Panel does not make an offer of a school place, the Local Authority will identify a school/academy to admit the young person taking into consideration the number of young people already accepted by each school under the Protocol and the accessibility of the school/academy for the young person. Consideration can also be given to any other personal circumstances of the young person.

The allocated school/academy may not always be within the Panel area within which the young person lives. (Appendix C).

If a school/academy refuses to agree to an 'instruction' from the Local Authority they must put their reasons in writing within five days. The Local Authority will then decide whether or not to issue a direction (community schools) or in the case of Academies refer the matter to the Education Funding Agency using the processes in place to seek a direction.

Children and Young People 'eligible' to be considered under the Protocol

Mandatory categories (as described in the Code of Practice)

- Children of Gypsies, Roma, Travellers, refugees and asylum seekers
- Children who are homeless
- Children who are carers
- Children with special educational needs, disabilities or medical conditions (but without a statement or EHCP)
- Children who have been out of education for two months or more (Appendix E)
- Children from the criminal justice system or Pupil Referral Units who need to be integrated into mainstream; and
- Children with unsupportive family backgrounds for whom a place has not been sought

Suggested locally agreed categories

- Children with less than 85% attendance
- Children whose behaviour is causing concern or who are at risk of being permanently excluded
- Children who are permanently excluded who are not referred to the Behaviour & Attendance Collaborative)
- Children who are known to the police, social care, CAMHS or other support agency
- Children returning from Elective Home Education
- Children whose parents have been unable to find them a place after moving to the area, because of a shortage of places within a 'reasonable' distance as defined in legislation; and
- Children of HM Forces families who are moving into the area

Department of Children's Services

Appendix A

Children who are Looked After by the Local Authority or children who are Formerly Looked After by the Local Authority (in accordance with the School Admissions Code of Practice 2014) **must** always be admitted to the preferenced school when requested by the legal guardian. The Code applies to all schools regardless of status and these requests are dealt with through the normal In Year Admission process. There is no capacity to refuse these applications and Looked After Children cannot be the subject of an appeal hearing.

In recognition of the challenges for schools in admitting Children Looked After or Formerly Looked After, a Fair Access credit will continue to be given to take account of the additional resources likely to be needed in supporting these children.

Appendix B

Before refusing an application and referring to a Fair Access Panel, schools should carry out background checks with the previous school. This information should be provided to the Admissions Team for inclusion in the Fair Access Panel log. On receipt of this information, the Admissions Team will pursue any additional background checks which are needed.

It is important that schools provide clear and robust reasons for refusing any application as these reasons will form part of the refusal letter to the parent and may be used as evidence at a school appeal hearing.

Appendix C

It may sometimes be necessary to instruct a school to take a child even if the child does not live in their area. Any instructions will only be made after careful consideration of the child's individual circumstances. This recognises that our geographical boundaries can result in a child having to travel unreasonable distances.

Appendix D

If a school refuses to admit a student through the Fair Access Panel and another school is named, a parent may wish to appeal the decision. It is therefore important, that any information or data that a school has to support their reason for refusal is sent to the Admissions Team to enable them to include this in the School Statement of Case to defend the school at appeal. Only cases refused through Fair Access can include information regarding the impact of an individual child and this is limited to information relating to Fair Access.