



# Fair Access Protocol



Trafford CYPS brings together council and health services to improve outcomes for children, young people, their families and schools.



## **INTRODUCTION**

All local authorities must have a Fair Access Protocol (FAP).

The FAP exists to ensure that, outside the normal admissions round, unplaced Trafford children, especially the most vulnerable, are offered a place at a suitable school as quickly as possible. and to ensure that no school is asked to take a disproportionate number of children who have been excluded from other schools or who have challenging behaviour. All admission authorities must participate in the FAP. There is no duty on the LA or admission authorities to comply with parental preference when allocating places through the FAP.

Pupils have a statutory right to be admitted to a school that has places available and that right cannot be overridden, except where a pupil has been permanently excluded twice. Therefore schools must admit all pupils who apply for an available place, under normal admission arrangements. Schools should respond promptly to any requests for admission so that the admission of all pupils is effected within a period of 20 school days (maximum) from the date of the request.

## **NORMAL ADMISSION PROCEDURES**

Applications received outside the normal year of entry (Reception and Year 7) are called 'In Year' applications. Currently, Trafford's School Admissions Team co-ordinate 'In Year' applications for all Trafford schools regardless of their status. With effect from September 2013 the School Admissions Team will process 'In Year' applications for Trafford community and controlled primary and secondary schools. Parents who wish their child to attend an academy, a voluntary aided school or a foundation school will apply directly to the school. Where a place is available at a preferred school the decision of the admission authority should be to allocate the place without delay.

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<sup>1</sup>. This will normally only be appropriate where a school has a particularly high proportion of children with challenging behaviour or

previously excluded children and one or more of the following exceptional circumstances exists, namely that the school:

- a) requires special measures or has recently come out of them (within the last two years);
- b) has been identified by Ofsted as requiring significant improvement and therefore given 'notice to improve';
- c) is subject to a formal warning notice by the local authority;
- d) [is a sponsored academy open for less than 2 years;](#)
- e) [is a secondary school where fewer than 35 per cent of children are achieving 5 or more A\\*-C GCSEs including English and mathematics, or a primary school where fewer than 60 per cent of pupils achieve Level 4 or above at Key Stage 2 in both English and mathematics for four or more consecutive years](#)

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.

Where no place is available the parent has the right to appeal to an independent appeal panel. This appeal hearing must be heard within 30 school days of the appeal being lodged. The decisions of Independent Appeal Panels are binding upon both the parent and the admission authority and, where an appeal is upheld the child must be admitted to the School.

## **WHERE NORMAL ADMISSION PROCEDURES HAVE FAILED**

Normal admission procedures will be deemed to have failed where the child has not achieved a place at a preferred school and can not be allocated a place at the catchment area school or the school designated as serving the area in which they live. Normal admission procedures include the right for the parents to go to appeal to the Independent Appeal Panel.

## **ELIGIBLE CHILDREN**

The Fair Access Protocol (FAP) provides for children admitted to school outside of the normal admissions round under the following categories;

- a) children from the criminal justice system or Pupil Referral Units who need to be reintegrated into mainstream education;

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<sup>1</sup> Where in the case of an Academy it cannot agree with the local authority over admitting a child, only the Secretary of State can direct the Academy to admit the child.

- 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).

Whilst children in the above categories may find it difficult to secure a place, the majority of children will be dealt with through normal admission procedures. Other children, not listed above, may also experience difficulties in attaining a school place, however the majority will also be admitted through routine admissions procedures operated by the School Admissions Team or relevant admission authority. The FAP will work as a fail safe for a minority of children who, for whatever reason, may find it particularly difficult to access a school place.

Children with statements of Special Educational Need (SEN) are not included in the FAP as their needs will be considered separately by Trafford's Special Educational Needs Service.

In line with the statutory requirement of the School Admissions Code, all admission authorities give top priority to looked after children and previously looked after children. Previously looked after children are children who were looked after, but ceased to be so because they were adopted (or became subject to a residence order or special guardianship order the LA is designated as the parents, i.e. "looked after.") The LA or Carers must follow the 'normal admission procedures, which include going to Independent Appeal.

## **PRINCIPLES OF THE FAIR ACCESS PROTOCOL**

Admissions applications dealt with by the School Admissions Team will usually be resolved within two weeks of the date of admission application.

Where normal admission arrangements are deemed to have failed, applications from eligible pupils may be referred to the PPP (Pupil Placement Panel). Referrals to the PPP can be made by the School Admissions Team or relevant PRU. As an over-arching principle in placing pupils, the PPP will balance the requirement to consider the circumstances of the individual pupil, with the requirement to allocate a place. Applications considered by the PPP

will also be resolved within 20 school days of the date of referral. However, the desire to meet this timescale should not override a comprehensive consideration of the needs of individual pupils and a subsequent decision about which school or setting will be best able to meet their needs.

Schools cannot cite oversubscription as a reason for not admitting a pupil under a FAP. Equally, whilst it is acknowledged that parental preference cannot be refused where places are available, no school, must be asked, under FAP, to take a disproportionate number of children who have been excluded from other schools or who have challenging behaviour or who are known to have a history of behavioural problems. The allocation of pupils by the PPP will be equitable across the schools in Trafford.

Academies, voluntary aided schools and foundation schools should respond quickly to applications so that the admission of the pupil is not delayed. **Schools should not refuse to admit a pupil who has been denied a place at that school at appeal**, if, within the parameters of the FAP it has been identified that the school is the one to admit the child.

As part of assessing the suitability of a placement for a pupil, the PPP should take account of any genuine concerns about the admission, for example a previous serious breakdown in the relationship between the school and the family, or strong views about the religious ethos of a school.

Wherever possible, pupils with a religious affiliation should be matched to a suitable school, but this should not override the FAP if the school is unable to take the pupil, or if the pupil identified for the school does not have that affiliation.

Where Trafford directs an admission authority to admit a child in care, the governing body must admit the child to the school at any specified time during the year, even if the school is full, unless the School Adjudicator, or the Secretary of State for Academies, upholds an appeal from the admission authority.

## **FUNDING**

A permanently excluded pupil who is admitted to a new school will have, from the date on roll, the remaining portion of the Age Weighted Pupil Unit (AWPU) formula in that financial year transferred to the new school. **All permanently excluded pupils will be offered full-time education through the Pupil Referral Unit from the sixth school day following the head teacher's decision to exclude the pupil, until the child is offered a place at a mainstream school, either by the normal admissions process or the PPP.**

## **RIGHT OF APPEAL**

If parents do not wish to accept the place recommended by the PPP they can continue to exercise their right, acquired under the normal admission arrangements, to appeal for their preferred school.

## **MONITORING**

The LA must produce an annual report on admissions for all the schools in their area for which they co-ordinate admissions, to be published locally and sent to the Adjudicator by 30 June following the admissions round. The report must include an assessment of the effectiveness of Fair Access Protocols and co-ordination in their area, including how many children were admitted to each school under them. The FAP will be subject to annual review and publication.

## **PUPIL PLACEMENT PANEL**

The PPP is a panel that will make a recommendation to the LA for an eligible pupil to be admitted to a particular Trafford School.

The PPP will meet on a half termly basis, as required, and will comprise 5 decision makers:

- Deputy Director of Education (PPP Chair)
- Chief Adviser (Primary / Secondary) or their nominated representative
- 3 Phase specific Head teachers.

Primary Heads will be nominated by each of the primary cluster groups. Primary Heads will not consider applications from their own cluster group. Secondary Heads will be called in alphabetical rotation according to their availability and impartiality.

The PPP will hear evidence/submissions from:

- Head of PRU (primary and/or secondary as appropriate)
- Behaviour & Attendance Adviser
- SEN Adviser
- Invited representatives who may already be involved in the child's case or may need to provide additional support once the child is admitted to the school.
- Admissions Officer
- Principal Education Welfare Officer

Panel meetings will take place on 2nd Friday of each half term and cancelled where appropriate. The Chair of the PPP will arrange for the circulation of papers and for the meetings to be clerked.

The PPP will **endeavour** to protect schools from the admittance of two permanently excluded pupils within an academic year, or two permanently excluded pupils from the same school or two permanently excluded pupils into the same year group.

The PPP will consider evidence as to which school is the most appropriate school,

The PPP will consider information on admissions to schools of excluded pupils, including where available, information from outside the LA, and previous moves of challenging pupils.

The PPP undertakes to:

- Take account of particularly difficult year groups in schools when considering the placement of an excluded child into one of these groups.
- Take account of undersubscribed year groups that have taken a disproportionate number of excluded pupils from other schools.
- Will nominate an appropriate body (e.g. where appropriate the PRU) to oversee a reintegration programme with the receiving school.
- School will ensure that all pupil records are transferred to the receiving school, via the PRU if necessary.

The school undertakes to

- Accept an excluded pupil including where the year group is oversubscribed, if recommended by the PPP and requested by the LA.
- Once referral papers have been received, admit the pupil within 10 school days. (This to be extended to a maximum of 12 days if the start date would then be the first day of a new term).
- Following the PPP's recommendation naming the new school and the LA's placement, the receiving school will arrange a pre-admission discussion with the support services and other involved agencies.
- Arrange admissions meetings with parents and child promptly and avoid unnecessary delays such as calling governors' meetings to discuss the case.
- Make the admissions meeting positive and encouraging, emphasising the importance of the fresh start. The purpose of the admissions meeting is to share necessary information with parents (for example, school hours, school uniform) and to gather sufficient information to ensure that an appropriate induction package can be put in place, the pupil can be allocated a tutor group and a timetable can be drawn up. A re-integration support plan should be drawn up at this meeting.

## **KEY PRINCIPLES**

Parents have a right to express a preference under Section 86 of the School Standards and Framework Act and nothing in the FAP overrides a parent's right to do this.

Any school in OFSTED special measures will not be expected to take an excluded pupil under the FAP.

All schools agree to abide by the recommendations of the panel and subsequent placement by the LA.

Recommendations on appropriate placements will be made to the LA by the PPP. The designated school and parents will be notified accordingly by the LA and all relevant papers forwarded.

In the event of a child being permanently excluded twice, on the second occasion the LA is not required to comply with parental preference for two years following the second exclusion.

**Local authority powers of direction** - A local authority has the power<sup>2</sup> to direct the admission authority for any maintained school in its area to admit a child even when the school is full. Before deciding to give a direction, the local authority **must** consult the governing body of the school, the parent of the child and the child if they are over compulsory school age. If, following consultation, the local authority decides to direct, it **must** inform the governing body and head teacher of the school. The governing body can appeal by referring the case to the Schools Adjudicator within 15 days. If it does this, the governing body **must** tell the local authority. The local authority **must not** make a direction until the 15 days have passed and the case has not been referred.

If the case is referred to the Adjudicator, the Adjudicator may either uphold the direction or determine that another maintained school **must** admit the child. The Adjudicator's decision is binding. The Adjudicator **must not** direct a school to admit a child if this would require the school to take measures to avoid breaking the rules on infant class sizes and those measures would prejudice the provision of efficient education or the efficient use of resources.

Where a local authority considers that an Academy will best meet the needs of any child, it can ask the Academy to admit that child but has no power to direct it to do so. The local authority and the Academy will usually come to an agreement, but if the Academy refuses to admit the child, the local authority can ask the Secretary of State to intervene. The Secretary of State has the power under an Academy's Funding Agreement to direct the Academy to admit a child, and can seek advice from the Adjudicator in reaching a decision<sup>3</sup>.

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<sup>2</sup>Sections 96 and 97 of the SSFA 1998.

<sup>3</sup> Section 25(3A) of the SSFA 1998.