



STOCKPORT
METROPOLITAN BOROUGH COUNCIL

Fair Access Protocol – Primary Schools

1. Main Principles

- 1.1 The School Admissions Code (2021) requires each Local Authority (LA) to have a Fair Access Protocol (FAP) in place to ensure that unplaced and vulnerable children, and those who are having difficulty securing a place in-year, are allocated a school place as quickly as possible.
- 1.2 Fair Access Protocols can only be applied to in-year admissions and not to applications at the normal point of entry (Reception or Year 7 transition).
- 1.3 The FAP does not apply to Looked After Children¹ (LAC) or children with an Education, Health and Care Plan (EHCP) which names a particular school or academy. These children **must** be offered places in accordance with the provisions set out in the School Admissions Code.
- 1.4 Parents/ carers have the right to apply for any school at any time and are entitled to have their preference met wherever possible, as well as the opportunity to appeal a decision when their preferences cannot be met. Fair Access Protocols must not be used in place of the normal in-year admissions process.
- 1.5 The Protocol must be developed with all schools in the area, agreed by the majority of schools, and all admission authorities **must** participate. Stockport's Fair Access Protocol has been developed in partnership with Headteachers in Stockport and has been agreed by a majority.
- 1.6 No school – including those with places available – should be asked to take a disproportionate number of children who have been permanently excluded from other schools, who display challenging behaviour or who are otherwise being placed via the FAP.
- 1.7 Where it has been agreed that an application will be considered under the FAP, a school place must be allocated within 20 school days of receipt of the application. Schools should arrange admission as soon as possible, without unnecessary delay. Where a school is asked to admit and fails to comply, they may be directed to do so.
- 1.8 Applications referred under the FAP will be considered at an In-Year Fair Access Panel (IYFAP). Effective IYFAPs have an emphasis on the common goal of ensuring all children referred to be considered via the FAP have access to a suitable school place as quickly as possible.
- 1.9 In the event that the majority of schools in an area can no longer support the principles and approach of their local FAP, they should initiate a review with the LA. There should be a clear process for how such a review can be initiated within each FAP. The existing

¹ In Stockport Looked After Children (LAC) are referred to as Children in our Care. A child who is looked after by a local authority as defined in section 22 of the Children Act 1989 means a child who is subject to a care order (or an interim care order) or who is accommodated by a local authority.

FAP will remain binding on all school in the local area until the point at which a new one is adopted (see section 6).

2. Eligible Pupils

2.1 Fair Access Protocols may only be used to place vulnerable and/ or hard-to-place pupils who meet the FAP criteria where they are having difficulty in securing a school place in-year and it can be demonstrated that reasonable measures have been taken to secure a place through the normal in-year admissions procedures. In Stockport, this is quantified as:

- Where an application has been made and the preferred or nearest available school with room has requested that the application be considered under the FAP, evidenced which criteria the application meets and demonstrated how the admission of a child would cause prejudice to the provision of efficient education and to the efficient use of resources **or**
- The LA is not able to offer a place at any school within a reasonable distance (see 2.5)

2.2 Fair Access Protocol criteria:

- a) children either subject to a Child in Need Plan or a Child Protection Plan or having had a Child in Need Plan or a Child Protection Plan within 12 months at the point of being referred to the FAP;
- b) children living in a refuge or in other Relevant Accommodation at the point of being referred to the FAP;
- c) children from the criminal justice system
- d) children in alternative provision who need to be reintegrated into mainstream education or who have been permanently excluded but are deemed suitable for mainstream education;
- e) children with special educational needs (but without an education, health and care plan), disabilities or medical conditions;
- f) children who are carers
- g) children who are homeless
- h) children in formal kinship care arrangements
- i) children of, or who are, Gypsies, Roma, Travellers, refugees and asylum seekers;
- j) children who have been refused a school place on the grounds of their challenging behaviour and referred to the FAP in accordance with paragraph 3.10 of the Code;
- k) children for whom a place has not been sought due to exceptional circumstances (as determined by the LA based on the circumstances of the case)
- l) children who have been out of education for 4 or more weeks where it can be demonstrated that there are no places available at any school within a reasonable distance of their home. This does not include circumstances where a suitable place has been offered to a child and this has not been accepted; and

- m) previously looked after children for whom the local authority has been unable to promptly secure a school place
- 2.3 Upon receipt of an in-year admission, the LA must not refuse to admit a child to a school on the basis that they would be, or they believe they would be, eligible to be placed via the FAP.
- 2.4 The application must be processed in accordance with the usual in year admissions process and the application will be shared with the school the LA intends to allocate a place at. Where a child is going to be refused a place through the normal in-year admissions process, the LA will consider whether the application is eligible to be referred to FAP.
- 2.5 Where a child has moved into or within Stockport and the LA is unable to allocate a school place within a reasonable distance (approx. 3 miles for children over 8 years old and 2 miles from children under the age of 8 years old), **before the application can be considered under the FAP**, attempts will be made to place the child through discussions with local schools who will be asked to admit above their Admissions Limit. A collaborative approach between the LA and schools in these cases reduces the need for a Fair Access Panel to be convened and ensures that a school place is secured for the child without delay.
- 2.6 If a school receives an in-year admission and has good reason to believe that a child may display challenging behaviour it may refuse admission and refer to the Fair Access Protocol. This should only happen if the school has a particularly high proportion of either children with challenging behaviour or previously excluded pupils on roll compared to other local schools and it considers that admitting another child with challenging behaviour would cause prejudice to the provision of efficient education and to the efficient use of resources.
- 2.7 A lack of information from a child's previous school(s) cannot delay the normal admissions process, cannot be a reason for refusing a school place and does not constitute a reason to refer an application to be considered under the FAP.
- 2.8 Previously looked after children should only be referred to be considered under the FAP in exceptional circumstances. Stockport is committed to ensuring both looked after and previously looked after children are prioritised within admissions processes and only for exceptional reasons should they be refused a place at a preferred school.
- 2.9 The LA is expected to allocate previously looked after children a school place promptly and for admission authorities to cooperate with this. The LA may consider following processes for direction if a school place for a previously looked after child cannot be agreed with an admission authority promptly.
- 2.10 The FAP does not apply to Looked After Children or children with an Education, Health and Care Plan.

3. The Process

In year admissions process

- 3.1 Upon receipt of an application, the School Places, Admissions and Transport Team will check with the applicant's preferred school(s) if there is a place available in the year group requested. If there is a place available and the child is at the top of the waiting list, a place will be allocated.
- 3.2 If there are no places available at the requested school(s) and the child requires a school place, a place will be allocated at the Nearest Available School with Room.
- 3.3 The allocated school will be given 5 school days to respond to the School Places, Admissions and Transport Team to request a referral under the FAP. If no response is received a formal offer will be issued to the applicant.
- 3.4 If a school verbally agrees for an offer to be issued sooner than the 5 school days and subsequently requests a referral under the FAP, this would be a retrospective referral (see 3.11)
- 3.5 Referring under the FAP is not an indication that a school intends to refuse the application, unless they are refusing it under Category J.

Referring an application for consideration under the FAP:

- 3.6 Where a school has made a referral under the FAP, they will be asked to complete the Fair Access Proforma (see appendix 1). They should send this to the School Places, Admissions and Transport Team within 5 school days of requesting the referral.
- 3.7 The FAP referral will be triaged by Senior Officers in the School Places, Admissions and Transport Team. They will review the application, alongside the request for referral to determine whether the application meets the FAP criteria.
- 3.8 If an application is determined to meet the FAP criteria, the School Places, Admissions and Transport Team will arrange for a Fair Access Panel to meet within 10 school days of the referral being received.²
- 3.9 Parents/ carers will be informed that the headteacher of the school has referred the application to be considered under the FAP.
- 3.10 If an application is determined by a Senior Admissions Officer to not meet the FAP criteria, the referring school will be notified, and an outcome letter will be sent to the applicant. If an offer of a school place is made, this is binding and the application cannot be referred under the FAP again. Schools will be expected to arrange admission promptly, without unnecessary delay.

² In some cases, the Panel may need to meet sooner than 10 school days from the referral to ensure the application has been processed within 20 school days.

3.11 Schools may request for pupils to be retrospectively added to their FAP admissions figures in cases where new information has been made available after an offer has been made. The allocated school must still admit the child in cases where a retrospective referral is made.

The Fair Access Panel

3.12 The Fair Access Panel will be made up of:

- The Headteacher from the school the LA are intending to allocate a place at
- Headteachers from up to the 8 closest schools (by walking distance) from the child's home address
- The Headteacher from the child's current school (if in Stockport)
- A senior officer from the School Places, Admissions and Transport Team

3.13 Representatives from a school should usually be the Headteacher. Where a Headteacher is unable to attend, they must arrange attendance of a representative who is authorised to participate in discussions, make decisions on placing children and admitting pupils when asking to do so, even when the school is full.

3.14 The Panel will be chaired by a representative from the School Places, Admissions and Transport Team.

3.15 The schools in attendance will be asked in advance of the meeting if they are able to host the meeting. Where necessary an alternative venue will be arranged.

3.16 A copy of the application (including any documentary evidence submitted by the applicant), the referral from the Headteacher (of the school the LA are intending to allocate to) and a summary of Fair Access admissions for the current academic year will be shared with all Panel members at least 3 school days before the Panel meet.

Considering each case:

3.17 Schools will be treated in a fair, equitable and consistent manner. This means that no school – including those with places available – is asked to take a disproportionate number of children who have been permanently excluded from other schools, who display challenging behaviour, or who are otherwise being placed via the FAP.

3.18 A summary of FAP admissions will be maintained by the School Places, Admissions and Transport Team for all primary schools in Stockport. Once confirmed a pupil allocated via the FAP has been placed on roll, they will be added to the summary.

3.19 If a school has admitted more children than other schools represented at a Fair Access Panel, they **may** not be required to admit any further children under the Protocol.

- 3.20 The Panel should seek to place children in a school that is appropriate to any particular needs they may have and a school that they are able to feasibly travel to.
- 3.21 The Panel must not require a school to automatically admit a child via the FAP, in place of a child that has been permanently excluded from the school.
- 3.22 Decisions on the placement of children should include, but are not limited to:
- The preferred school(s)
 - The needs of the children in question
 - Schools within a reasonable distance of the child's home address (3 miles for children over 8 years old and 2 miles from children under the age of 8 years old)
 - The number of children admitted via the FAP at each school represented
 - The prejudice to the provision of efficient education and to the efficient use of resources that would be caused by the admission of a child in these circumstances
 - **Where necessary**, Infant Class Size regulations (see 3.23 and 3.24)
- 3.23 The *School Admissions Code (2021)* (section 2.16) and the *School Admissions (Infant Class Sizes) (England) Regulations 2012* require that infant classes **must not** contain more than 30 pupils with a single qualified teacher.
- 3.24 With the exception of applications being considered under category L or M of the FAP, schools that have reached the Infant Class Size Limit in a Key Stage 1 year group will not be required to admit children under the Fair Access Protocol. Any local schools that have reached the Infant Class Size Limit will still be required to attend the Fair Access Panel.
- 3.25 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.
- 3.26 Challenging behaviour cannot be used to refuse admission to Looked After Children or children who have Education, Health and Care Plans naming the school in question.
- 3.27 There is no duty for admission authorities to comply with parental preference when allocating places through the FAP, but parents/ carers views should be considered.
- 3.28 In the event that the Panel cannot agree which school should be allocated and the child requires a school place, panel members will be expected to challenge each other, with guidance from LA representatives. The Panel should consider in-year and fair access admissions data and the information provided in advance of and during the meeting by representatives. **The meeting will not close with no school place allocated.**
- 3.29 At the completion of the Fair Access Panel, the allocated school will receive confirmation in writing of the allocated place and the applicants will receive an outcome letter from the School Places, Admissions and Transport Team within 2 school days.

- 3.30 Each Fair Access Panel will be minuted by an officer from the LA and decisions made will be recorded and made available to panel members should they request it.
- 3.31 Where an application has been considered under the FAP, applicants must receive an outcome within 20 school days. If an offer of a school place is made, the allocated school must make admission arrangements for the child to start as soon as possible.
- 3.32 Where an applicant is refused a place at one or all of their preferred schools, they will be given the right to appeal this decision. For any appeals lodged an officer from the LA will present the school's case as to why admission has been refused and why the admission of a child in these circumstances would cause prejudice to the provision of the efficient education and to the efficient use of resources.
- 3.33 Where there is evidence that a child may have difficulties accessing mainstream education without support, the School Places, Admissions and Transport Team **may** consult parents/ carers and other agencies and seek to provide support to the receiving school. However, this process must not be used as a mechanism to delay the Fair Access Panel allocating a school place.

4. Refusing pupils who display challenging behaviour

- 4.1 Challenging behaviour can be described as challenging where it would be unlikely to be responsive to the usual range of interventions to help prevent and address pupil misbehaviour or it is of such severity, frequency or duration that it is beyond the normal range that the schools can tolerate. We would expect this behaviour to significantly interfere with the pupil's or other pupils' education or jeopardise the right of staff and pupils to a safe and orderly environment.
- 4.2 In Stockport, challenging behaviour can be quantified as pupils who have received suspensions **and** there is evidence that:
- There have been repeated incidents of disruptive behaviour which has significantly impacted on other pupil's education **or**
 - Infringed on the wellbeing and safety of pupils and staff
- 4.3 Pupils who display challenging behaviour (as described above) but have not received suspensions may still be refused admission and referred to be considered under the FAP by the schools' admission authority. Schools who intend to refuse on the grounds of challenging behaviour may only do so if:
- The school has a particularly high proportion of children with challenging behaviour or previously excluded pupils on roll in comparison to other schools and can provide specific examples of this involving specific pupils **and**

- It believes admitting another pupil with challenging behaviour would cause prejudice to the provision of efficient education and to the efficient use of resources

4.4 The following reasons on their own should not be grounds for considering that a child may display challenging behaviour:

- Poor attendance
- A defined number of suspensions without consideration of the grounds on which they were made
- Having a disability or special educational needs
- Lack of information from a previous school

4.5 Schools who intend to refuse on the grounds of challenging behaviour should contact the School Places, Admissions and Transport Team within 5 school days of being notified that a place has been allocated to request that the outcome is not sent to the applicant. The school must provide evidence using the Fair Access Protocol Proforma (see appendix 1).

4.6 Upon receipt of satisfactory evidence, a Fair Access Panel will be convened within 10 school days. The Panel will be provided with the evidence submitted by the school and other preferred schools (if any) may be required to provide similar evidence in order to assist the panel in its decision making.

5. Powers of direction

5.1 Admission authorities must admit children when asked to do so in accordance with the FAP, including where the school is operating with a waiting list. When they fail to do so, they may be directed to do so as outlined in the School Admissions Code.

5.2 The LA, as the employer of the Headteachers of maintained schools, will take action to ensure that schools maintained by the LA are directed to admit pupils without unnecessary delay.

5.3 LA's have the power to direct a Governing Body of a maintained school for which they are not the admission authority to admit a child in their area, even when the school is full.

5.4 Where an academy has been determined to best meet the needs of a child and a place has been allocated, the school is expected to start the child without unnecessary delay. If they refuse to do so, the LA can ask the Secretary of State to intervene. The Secretary of State has the power to direct an academy, under the academy's funding agreement, to admit a child.

6. Fair Access Protocol Review

- 6.1 The FAP will be reviewed each year at the end of the summer term, along with any changes in statutory legislation and any concerns that have been raised by involved parties.
- 6.2 If any parties involved with the FAP feel that it is no longer fair or viable, they should submit their concerns in writing to the LA.
- 6.3 In the event that the majority of schools are of the view that they can no longer support the principles and approach of the FAP or should a change to the fundamental principles and process be proposed, the Headteachers of all secondary schools in Stockport will be consulted and invited to express their views.
- 6.4 The existing Fair Access Protocol will remain binding on all schools in the local area until the point at which a new one is adopted.

APPENDIX 1

Primary Fair Access Protocol Proforma

Fair Access Protocols (FAP) may only be used to place vulnerable and/ or hard-to-place pupils who meet the FAP criteria where they are having difficulty in securing a school place in-year and it can be demonstrated that reasonable measures have been taken to secure a place through the normal in-year admissions procedures. In Stockport, this is quantified as:

- Where an application has been made and the preferred or nearest available school with room has requested that the application be considered under the FAP, evidenced which criteria the application meets and demonstrated how the admission of a child would cause prejudice to the provision of efficient education and to the efficient use of resources **or**
- The LA is not able to offer a place at any school within a reasonable distance (see 2.5 of the Fair Access Protocol)

A lack of information from a child's previous school(s) cannot delay the normal admissions process, cannot be a reason for refusing a school place and does not constitute a reason to refer an application be considered under the FAP.

The purpose of Fair Access Protocol proforma is to allow schools to detail why they believe an application should be considered under the FAP and to provide information specific to their school to demonstrate to the Admissions Team and Fair Access Panel why the admission of a further child in these circumstances would cause prejudice to the provision of efficient education and to the efficient use of resources.

You may find it useful to refer to the Fair Access Protocol for further guidance:
<https://www.stockport.gov.uk/documents/school-admissions-fair-access-protocols>

You must send the completed form and any supporting evidence to the Admissions Team via admissions.support@stockport.gov.uk within 5 school days of being asked to complete it.



Name of Pupil:		NCY:	
Current School:		FAP category³:	
Has the pupil already received a formal offer for your school?⁴		Has the pupil already been admitted to your school?	
Reason for referral:	<i>You must provide a clear and concise explanation of why you feel this application meets the threshold for the FAP category you have indicated above. You should also attach evidence to support this when emailing this completed form to the Admissions Team.</i>		
Number on roll in year group		Admissions Limit (PAN) for the year group	

³ Refer to the Fair Access Protocol for further information on the individual criteria

⁴ If the pupil has already been offered a place or has already been admitted, this will be a retrospective referral, and admission arrangements **must** still be made for the pupil.



Number of children with EHCP's in the year group			
Number of children with SEN support in the year group			
Number of children who are Looked After⁵ or Previously Looked After in the year group			
Number of children identified as having SEMH issues in the year group			
Number of children who are under CP, CIN or TAC in the year group			
Number of children that have received suspensions in the year group in the current academic year		Number of children that have been permanently excluded from other schools in the year group	
Do you have a high proportion of children with challenging behaviour in the year group? Please provide further information			
Please use this box to provide further information you wish for the panel to consider <u>This should demonstrate why the admission of a further child in these circumstances would cause prejudice to the provision of efficient education and to the efficient use of resources at your school.</u> This information could also include the impact on the school as a whole as opposed to the specific year group. This information may be shared with the child's parent in the event of an appeal to the independent panel			

Declaration

I can confirm that the headteacher has considered the application for the above-named pupil and that the information provided on this form is correct and complete to the best of my knowledge:

Name of School:	
Name and job title of person completing this form:	
Date form completed:	

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