

**ROYAL BOROUGH OF KENSINGTON AND CHELSEA**  
**FAIR ACCESS PROTOCOL - SECONDARY PROVISION**

**Background**

1. The School Admissions Code requires local authorities to have a Fair Access Protocol in place which ensures that access to education is secured quickly for children who have no school place and that all schools in an area admit their fair share of the most vulnerable children, including those whose behaviour has been challenging. All schools *must*<sup>1</sup> agree and participate in the Fair Access Protocol and will be expected to admit children above their published admissions number if the school is already full.
- 1.2 The Local Authority's (LA) *Admissions and Access to Education Team* would normally be the first point of contact for parents/carers resident in the Royal Borough seeking a school place for their child. In the majority of cases, children will be allocated a school place in accordance with normal in-year admission procedures either in a Royal Borough school, or due to geography, in a neighbouring borough school.
- 1.3 In accordance with 3.30(b) of the Code, local authorities *must* produce an annual report on admissions to the Adjudicator which 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.
- 1.4 The objective of the Royal Borough of Kensington and Chelsea's Fair Access Protocol is to achieve the best possible outcomes for resident children that are considered hard to place and/or vulnerable.

**2. Scope of the Fair Access Protocol**

- 2.1 This Protocol will apply to all secondary school aged children normally resident, or who will be normally resident, in the Royal Borough. It is, in effect, a safety net or a last resort process for the minority of children where normal procedures for in-year admissions have failed and the child is considered to be 'hard to place'
- 2.2 The objectives of the Fair Access Protocol are to:
  - Be fair and transparent and have the confidence of all schools;
  - ensure that out of school children identified for a FAP placement are offered education provision appropriate to the child and their needs as quickly as possible;
  - ensure permanently excluded children, and children in alternative provision, return to mainstream school as quickly as possible where it has been assessed by relevant professionals as appropriate;
  - ensure that all schools in the area, including those that may have places available, admit their fair share of children who have had behavioural difficulties.

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<sup>1</sup> The word *must* represents mandatory requirements of the Admissions Code

- ensure that children who are more vulnerable to missing education, which may in turn impact on their welfare, health and safety, happiness and educational opportunity are placed in a school as quickly as possible.
- 2.3 It is recognised that while some children may be vulnerable, it is not always the case that they will be 'hard to place' in a school and should in most cases be offered a school place in accordance with normal in-year admissions arrangements.
- 2.4 The Royal Borough's Fair Access Protocol covers two broad categories.
- **External** - Children of statutory secondary age who have been out of education for a minimum of 4 or more weeks from the date of registration for a school place with the LA and where it can be demonstrated that there are no places available at any school within a reasonable distance from their home<sup>2</sup>.
  - **Internal - Children or young people attending Ormiston Alternative Provision (OAT) who have been assessed by OAT as ready for reintegration back into mainstream education.**
- 2.5 Fair Access referrals cannot be made to, or considered by the panel for pupils on roll at any other mainstream school. Consideration for a managed move will apply in cases where it may be necessary for a fresh start in another school. The process of managed moves can be found in **Para. 8**.
- 2.6 Fair Access referrals cannot be made to, or considered by the panel for children that are no longer resident in the area, or that have left the country, even for a short period.
- 2.7 Schools will place back on roll any child that previously attended their school where the parent withdrew to home educate. This applies to children resident in both Kensington and Chelsea and Westminster. Only when exceptional circumstances apply, that does not allow the child to return to the school, will the case be referred for a Fair Access placement at an alternative school.

### **3. Children arriving in the borough and unable to secure a school place**

- 3.1 There are usually enough vacancies in Years 7-9 in secondary schools in neighbouring LAs. Because of the nature of local geography, these may be as near or as accessible to parents as schools within the Royal Borough. Parents looking for a school place will be informed of the possible vacancies available in schools in neighbouring LAs, if there are no vacancies available within the borough, and will be advised to apply to as many schools as possible to increase the chance of a place being offered.
- 3.2 Difficulties are most often encountered in finding places for pupils in Years 10 and 11. Schools may have vacancies in these year groups but can be reluctant to admit Key Stage 4 children who have embarked on a different course of GCSE studies.
- 3.3 The statutory duty on the home LA is to ensure suitable<sup>3</sup> education is provided to its resident children. A child will not be considered for a Fair Access placement if a school

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<sup>2</sup> Reasonable distance as defined in the DfE 'Home to school travel and transport guidance' is a distance from home to school no further than 3 miles as calculated as a short walking route, or a public transport journey that does not exceed 75 minutes each way.

<sup>3</sup> The definition of 'suitable education' is efficient full-time education suitable to a child's age, ability, and aptitude.

has been identified through the normal in-year procedures. Securing a school place at any time other than the normal phase of entry to school (reception and Year 7) will mean that the majority of schools will be full. It will often be the case that the identified school will not be the preferred school, but will be the nearest school with a vacancy. The child must have been refused all schools within a reasonable distance from home to school for the threshold for fair access to be met.

- 3.4 It is the legal responsibility of the parent/carer to ensure the child in their care receives suitable education provision. If a school place has been identified but refused by the parent/carer, every effort will be made to identify an alternative school if possible, in accordance with normal in-year admissions arrangements. It must be made clear that there will be little or no element of choice when seeking an in-year admission as most schools will be full. A persistent refusal by the parent/carer of a school place will be referred to the CME Officer.

#### **4. Mechanism for placement of hard to place secondary age children**

- 4.1 Where it has not been possible to identify a school for a child in accordance with the standard in-year admission arrangements after a minimum of 4 or more weeks from the date of initial registration, and where it can be demonstrated that there are no places available at any school within a reasonable distance of their home, the child will be considered for referral under the Fair Access Protocol.
- 4.2 In order to ensure a school place is allocated within 20 school days from when senior officers have agreed to consider a case or cases for Fair Access, it may be necessary to consult with schools in advance of the next scheduled meeting in order to secure a confirmed place within the statutory deadline.
- 4.3 For exceptional cases where the Local Authority determine it necessary to secure a place at either Ormiston Latimer Academy or Ormiston Beachcroft Academy urgently, these will be considered fast-track fair access cases and referred directly to the Ormiston Academy Trust for immediate placement outside the normal meetings schedule.
- 4.4 Extensive negotiation is not part of the Protocol. The choices offered will be limited and because of the limited places available there may indeed be no choice at all. As far **as is reasonably practical**, the following will be taken into account when identifying the appropriate school in which to allocate a place to the child:
- Parental preference including religious or cultural affiliations.
  - The number on roll at the identified school, whether the school has exceeded its Published Admissions Number, by how many and reasons why.
  - How many children have been placed at local schools under the Fair Access Protocol.
  - Whether the school has a clear and identifiable reason why it cannot meet the child's needs.
  - The opinion of professionals who may be involved.

#### **5. Procedures for Royal Borough schools**

- 5.1 Fair Access placements are considered outside of an individual school's admission criteria and *must* take priority above applicants on a waiting list (if there is one in operation and irrespective of numbers on roll).

- 5.2 Where a Royal Borough school has been identified as an appropriate placement for the child, the school will be expected to admit the child without unnecessary delay. All schools are expected to arrange a 'placement meeting' with the family within 5 school days of notification of the agreed placement. Exceptionally, in the intervening period a child may require assessment by the school and the LA to determine need for additional support which cannot be put in place by the given date. In this instance, the school must notify the Admissions Team to inform the parent of the reason for delay and give a new start date. The expectation is for the child to be on roll at the agreed school within 10 school days of the notification unless the latter applies.
- 5.3 In the event of a school refusing to accept the admission the Royal Borough will direct or instruct the school to admit. The governing boards of schools which are their own admissions authority may refer a direction to the Schools Adjudicator who will determine which school is to admit the child. For Academies, the LA will apply for a direction to the EFA.
- 5.4 Where a parent expresses a preference for a particular school and a place cannot be offered, the parent *must* be informed of the right of appeal. The child's name will also be added to the waiting list for the school in accordance with the admissions criteria for that school.
- 5.5 If the parent/carer rejects the school or alternative provision offered to the child, they will still have the right to appeal for a place at their preferred school(s). The appeal panel will be informed that places have been allocated according to the criteria of the Fair Access Protocol which *must* be taken into account.

## **6. Children with an Education, Health and Care Plan (EHCP) and Looked After children (LAC)**

- 6.1 The provision of the Fair Access will not apply to a looked after child<sup>4</sup>, or a child with a EHCP naming the school in question. The placement of such cases are managed through a separate process.

## **7. Managed Moves and alternative provision**

- 7.1 Managed moves can be an effective mechanism for avoiding permanent exclusions or providing a fresh start where it has been concluded this is in the best interest of the child. Managed moves are agreed outside Fair Access arrangements between schools and /or OAT, but will be monitored in order to retain an overview of the movement of Hard to Place/vulnerable children.

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<sup>4</sup> (DfE Admissions Code): 'In most cases use of the Fair Access Protocol should be unnecessary for a previously looked after child. We would expect the local authority to aim to secure a school place particularly promptly for a previously looked after child and for admission authorities to cooperate with this. The local authority may consider swift use of their general powers of direction (under paragraphs 3.26-3.28) or asking the Secretary of State to consider a direction (under paragraph 3.29) to be the most suitable course of action if a school place for a previously looked after child cannot be agreed with an admission authority promptly.'

## **8. Funding**

- 8.1 All Fair Access placements will receive £1k funding in addition to the associated AWPU (age-weighted pupil unit). Payment will be made once the child is confirmed as on the school roll.
- 8.2 The effective operation of the Fair Access Protocol will be for the benefit of the Royal Borough's children and will require the full cooperation of all schools in the Royal Borough.