

TAMESIDE MBC
SECONDARY MAINTAINED SCHOOLS AND ACADEMIES
FAIR ACCESS PROTOCOL 2021 - 2022

1. Background

1.1 Departmental Advice July 2021 advises the purpose of a Fair Access Protocol is to ensure that – outside the normal admissions round – unplaced pupils, especially the most vulnerable, are found and offered a place quickly, so that the length of time any pupil is out of school is kept to the minimum.

1.2 The advice note states that every local authority must have a Fair Access Protocol (FAP), agreed with the majority of schools, in which all schools including Academies and Free Schools must participate since it is binding on all schools.

1.3 Schools should work together collaboratively, taking into account the needs of the pupil and those of the school. There is no duty to comply with parental preference when allocating places through the FAP but it is expected the views of the parents are taken into account.

1.4 The FAP will 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. The School's Fair Access weighted credit total (described in section 3) will determine what constitutes a "disproportionate number of pupils".

2. Main Principles

2.1 The FAP will ensure that school places are allocated and offered in an open and fair way. The operation of the FAP is outside the arrangements of co-ordination and will only be used for unplaced children that meet the prescribed categories set out in paragraph 3.17 of the School Admissions Code September 2021 and detailed in section 3 of this document. It is not intended to cover the majority of pupils for whom in-year transfers are a straightforward procedure.

2.2 Admission Authorities must not refuse to admit a pupil thought to be potentially disruptive, or likely to exhibit challenging behaviour, on the grounds that the child or young person is first to be assessed for special educational needs.

2.3 Every effort will be made to source relevant educational and professional evidence within a reasonable timescale from receipt of the application. Where there is professional evidence that mainstream education may not be suitable at the present time, the local authority will consult parents and other agencies and seek to provide appropriate provision or support.

2.4 Where a governing body does not wish to admit a pupil with challenging behaviour (see 2.5) outside the normal admission round, even though places are available, it must refer the pupil to the Fair Access officer for action under the provisions of paragraph 3.10 of the School Admissions Code 2021 stating the reasons for refusal. This will normally only be

appropriate where a school has a particularly high proportion of pupils with challenging behaviour or previously excluded pupils compared to other local schools and it considers that admitting another child with challenging behaviour would prejudice the provision of efficient education or the efficient use of resources. This provision does not apply to a looked after child, a previously looked after child or a child with an education health and care plan naming the school in question, as these children must be admitted under separate procedures.

2.5 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 schools can tolerate. This behaviour is expected to significantly interfere with the pupil's / other pupils' education or jeopardise the right of staff and pupils to a safe and orderly environment. Further guidance is included in the Referral Form at Appendix A.

2.6 A pupil with challenging behaviour may also be disabled as defined in the Equality Act 2010. When considering refusing admission on these grounds, admission authorities must consider their duties under that Act including when a pupil exhibits a tendency to physical abuse of other persons as a consequence of a disability.

2.7 Once it has been agreed that a pupil should attend a named school, that school must be accountable for that pupil. 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.

2.8 The Local Authority (LA) will have the responsibility for identifying a pupil as being 'Fair Access' based upon evidence on the application form and where relevant from the transferring school and other appropriate professionals.

3. Referral to the Fair Access Protocol (FAP)

3.1 Referral to the FAP should be seen as the last resort to secure a school place for a child. Where possible, children should be placed in school through the usual in-year admissions process in the first instance.

3.2 Where an admission authority refuses an in-year application and it considers that the pupil may fall into a fair access category, the admission authority should notify the local authority of this **within 5 school days stating the reasons for referral**. A referral Form is included at Appendix A for this purpose. Where the LA subsequently decides that a child is to be placed via the FAP, parents will be notified and a school place must be allocated to that child **within 20 school days**.

3.3 The FAP will only be used to place the following groups of pupils who 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 usual in-year admission procedures:

- 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** (information may be sought from the previous LA)
- 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** (as evidenced by either a child arrangements order not relating to either birth parent or a special guardianship order)
- 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** (the local authority will decide whether a child qualifies to be placed via the FAP on this basis, 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. (*The reasonable distance will be the statutory walking distance between home and school that the Government thinks a child should be able to walk: three miles for pupils aged 8–16 years)
- m) **previously looked after children for whom the local authority has been unable to promptly secure a school place** (In most cases, use of the FAP should be unnecessary for a previously looked after child. The LA is expected to secure a school place promptly for such children and for admission authorities to cooperate with this. The LA will consider use of their general powers of direction or will ask the Secretary of State to consider issuing a direction [as set out in paragraphs 3.26 to 3.29 of the Code] where a school place for a previously looked after child cannot be agreed with an admission authority promptly).

3.4 The In-Year Fair Access Panel (IFAP) will take place each month. All Head Teachers will be expected to attend. The IFAP will be chaired by a Head Teacher and the meeting facilitated by the Fair Access Officer.

3.5 All schools must authorise a representative to participate fully in discussion and decision-making on placing children referred to the IFAP and admit their fair share of children when asked to do so in accordance with the FAP.

3.6 Those schools referring applications to the IFAP will attend and present their reasons for the referral. The panel will consider the application and subsequently allocate a school. The IFAP will remain sovereign for all decisions made. Non-attendance at the panel shall not be cited as a reason to subsequently refuse a place to an allocated pupil. It is expected that all pupils under consideration at the IFAP will be allocated a school place. The FAP is designed to ensure the timely placement of vulnerable pupils, therefore requests for further information should only be made in accordance with statutory timescales.

3.7 Once a school place has been allocated, the Fair Access Officer will notify parents and arrangements should be made for the pupil to start at the school as soon as possible to avoid any gaps in their education. The school and/or the local authority should also make any necessary arrangements that may be required to ensure any needs of the pupil are met, and that they have a successful start at the school. The school will inform the Fair Access Officer of the start date of the pupil and a fair access credit will be awarded.

3.8 In all cases the Fair Access Officer informs the parents of the school allocations and if relevant their statutory right of appeal to an independent appeal panel. The Fair Access officer will also update the Fair Access records to ensure there is equity of placement.

3.9 FAIR ACCESS CREDITS - Schools are awarded one fair access credit for each pupil allocated under the protocol. The number of credits a school has accrued during the current and previous 2 terms will be taken into account when pupils are allocated to schools. Fair Access credits will remain pending until a start date is confirmed to the Fair Access Officer. If a pupil is not subsequently admitted into an allocated school, the credit is removed.

4. Reintegration of Pupils from the Pupil Referral Service

4.1 When a student demonstrates readiness to return to mainstream school TPRS will discuss suitable schools with the student and the parents and will offer preference advice. The decision regarding preferred schools will have regard to parental preference, previous FA pupil allocations, school FA weightings, geography, transport, and known associations that may hinder the pupil's success at particular schools.

4.2 TPRS will contact the preferred school direct with the information about the student. The Head Teacher will discuss the suitability of the placement with the TPRS within 2 days from receipt of the information*. If the Head Teacher believes the placement is not suitable but the TPRS and family still want the placement, the placement is discussed at the next available IFAP. Valid reasons for objection to a TPRS placement are limited. In the meantime, TPRS may approach the second preference school. Students for whom the excluding school recommends an immediate return to another mainstream school will be placed without delay. Receiving schools will not challenge the excluding school's recommendation.

*The student will start at their new school within 2 weeks of the placement being agreed.

4.3 Once a placement is agreed the pupil will be dual registered with TPRS as the MAIN school and the placement school as the SUBSIDIARY.

4.4 A meeting for the student and family must be arranged within 5 days of the agreement. This meeting will follow the reintegration script guidelines (see appendix B) and will determine:

- Agreed Start Date

- Flexible timetable details
- Examination arrangements
- In-school support package i.e. identified staff member etc.
- Details of learning needs / SEND information /useful strategies for support
- Medical information sharing
- Details of other agencies currently working with the family

4.5 SCHOOL REVIEWS – School review meetings will be held at 4, 8 and 12 weeks. At each review meeting representatives from the school, the student, their family and TPRS will attend. The mainstream school will arrange this meeting.

4.6 Following a successful 12-week school review meeting, TPRS will take Key Stage 3 students off roll and the student will become single registered at the mainstream school. **Key Stage 4 pupils (i.e. Y10 & Y11) remain dual registered until the end of Year 11.** For KS4 students who remain dual registered with TPRS, attendance will continue to be monitored by both the mainstream school and TPRS. TPRS will gather attendance data half-termly along with details of any action taken for poor attendance. This information must be freely available to TPRS.

4.7 If at the 12 week school review meeting it is agreed that the pupil is not progressing as desired (e.g. the pupil has displayed behaviour which would warrant a fixed term exclusion in accordance with the school's own behaviour policy) the 12 week dual registration can be extended by agreement.

4.8 Reintegration students must be treated the same as a regular student already on roll. Breaches of the school behaviour code incur the same sanctions as other students and are not reason for placement breakdown. For example, poor attendance and uniform transgressions are not reasons for placement breakdown. TPRS student supported re-integrations are NOT Managed Moves.

4.9 REINTEGRATION FAILURE – During the dual registration period, should the pupil's behaviour give significant cause for concern, (i.e. the pupil has done something which would warrant a permanent exclusion in accordance with the school's own behaviour policy) the placement will be terminated by agreement.

4.10 The decision to terminate a reintegration placement will be made by the Headteacher of the mainstream school in consultation with TPRS Executive Headteacher, after sharing of all the relevant information with TPRS reintegration officer. This information will subsequently be shared with parents.

4.11 The Mainstream School will complete and forward the Pupil Passport to TPRS within 5 days of the decision to terminate the placement. The TPRS pupil reintegration process is summarised as follows:

- A placement request is sent to the school
- Head teacher and TPRS discuss suitability of the proposed placement within 2 days
- Student is Dual Registered with the TPRS as the MAIN and the SCHOOL as the SUBSIDIARY, unless Head Teacher objects and the placement is discussed at the IYFAP

- KS3 student attends successfully for up to 12 weeks (dual reg) then becomes single registered at the school. KS4 students remain dual registered with TPRS

4.12 Should the TPRS encounter problems securing a school placement for individuals; the placement request is brought to the IYFAP for resolution.

4.13 Cared for Children and EHCP Students transferring to mainstream schools from TPRS do not count as TPRS re-integrations.

5. Ensuring Success

5.1 In order for the scheme to be successful, all participants must adhere to the following points:

5.2 APPEALS - Fair access pupils will be given priority for admission over any others awaiting an appeal for admission and schools must not insist on an appeal hearing before admitting a pupil under this protocol. Schools should be aware that where they refuse a child a school place and subsequently refer them to the FAP, they may later be required to admit that child if an appeal is upheld. This would still be the case when an alternative school place is offered to the child via the FAP. In all circumstances, the decision of an appeal panel is binding and must be complied with.

5.3 RELIGION / FAITH - Wherever possible pupils with a religious affiliation will be matched to a suitable school, but this will not override the Protocol.

5.4 LOOKED AFTER CHILDREN (CARED FOR CHILDREN) - Admission authorities are required to give highest priority in their admission arrangements to children in care, and Local Authorities may direct other admission authorities for any maintained school to admit a child in their care. ~~Looked after~~ Cared for children are not allocated school places under the protocol and will not be eligible for FA credits.

5.5 SPECIAL EDUCATIONAL NEEDS (SEN) - Children with an Education, Health and Care Plan are not covered by the protocol and are placed according to the SEN Code of Practice.

5.6 YEAR GROUP NUMBERS - All Schools must ensure the Fair Access Officer receives regular updates confirming the number of pupils on roll in each year group and within 2 days on request.

5.7 RETURNING FROM ELECTIVE HOME EDUCATION DUE TO COVID-19 - During the COVID-19 outbreak, some parents of children who are clinically extremely vulnerable (at very high risk of serious illness from coronavirus) decided to electively home educate their child. Where a parent decides they want their child to return to school and subsequently apply for a school place, applications should be processed in accordance with the local in-year admissions process. Most children should secure a school place this way. For those experiencing difficulties, local authorities should be aware that those children with medical conditions qualify to be allocated a school place via the FAP under category (e) above. Other children in this situation may also qualify to be placed via the FAP under category (l) above.

6. Local Authority Direction

6.1 If the In Year Fair Access Panel does not make an allocation of a school place the Local Authority will 'instruct' a school or 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 or academy for the young person. Consideration can also be given to any other personal circumstances of the young person. The allocated school or academy may not always be within the area within which the young person lives.

6.2 If a school or academy refuses to adhere to a direction from the Local Authority they must put their reasons in writing within 5 school days. The Local Authority will then decide whether or not to issue a direction (community schools) or refer the matter to the Education Funding Agency acting on behalf of the Secretary of State (all other schools and academies) using the processes outlined in the School Admissions Code 2021.

7. Monitoring and Evaluation

7.1 Implementation of the Protocol will be monitored by the Tameside School Admissions Team. The Protocol will be reviewed in the summer term of each academic year so that any amendments can be agreed and implemented from the start of the following academic year.
