



London Borough
of Hounslow

FAIR ACCESS PROTOCOL

September 2023

1. Introduction and the law

All Local Authorities in England must comply with the legislative Code on Admissions in the exercise and discharge of local authority functions in relation to admissions under the School Standards and Framework Act (SSFA) 1998. The SSFA and relevant regulations confers a number of duties which require the LA to carry out different functions at different times of the admissions cycle.

The current Code for School Admissions came into force in September 2021. This Code imposed mandatory requirements and includes guidelines, setting out aims, objectives and other matters in relation to the discharge of functions relating to school admissions by the bodies listed below:

- Local authorities
- Admission authorities of maintained schools
- Academies and Academy Trusts (this includes maintained schools converted to academies and free schools)
- Governing bodies
- Schools Adjudicators
- Admission Appeal Panels

These bodies have a statutory duty to act in accordance with the relevant provisions of the Code. The Local Authority has the duty to provide suitable education or otherwise for all children of compulsory school age resident in the borough. Academies are required by their funding agreement to comply with the Code and the law relating to admissions, though the Secretary of State has the power to vary this requirement where there is a demonstrable need.

The School Admissions Code (3.14) states each local authority must have a Fair Access Protocol, the protocol must be consulted upon and developed in partnership with all schools in its area. Once the protocol has been agreed by the majority of schools in its area, all admissions authorities must participate in it. To ensure that unplaced and vulnerable children, and those who are having difficulty in securing a school place via the in-year process, are allocated a school place as quickly as possible.

In agreeing a protocol, the local authority must ensure that no school, including those with available places, is asked to take a disproportionate number of children who have been permanently excluded from other schools, who display challenging behaviour, or who are placed via the protocol. The protocol must set out how the needs of children who have been permanently excluded, and children for whom mainstream education is not yet possible, will be met.

There is no duty for local authorities or admission authorities to comply with parental preference when allocating places through the Fair Access Protocol, but parents' wishes should be taken into account.

In order to support schools and officers in complying with these mandatory requirements the LB Hounslow develops and manages the required local protocols and procedures.

The operation of Fair Access Protocols is outside the arrangements of coordinated normal admission rounds and is triggered when a parent of an eligible child has

not secured a school place under in-year admission procedures. The protocol must describe the circumstances in which it will be applied and set out how decisions about admissions of vulnerable, hard to place and pupils with challenging behaviour will be made.

The Department for Education states that Fair Access Protocols should not be used as a means to circumvent the normal in-year admissions process. A parent can apply for a place as an in-year admission at any point and is entitled to an appeal when a place is not offered.

It will also be used to ensure that schools do not admit a disproportionate number of hard to place vulnerable pupils OR pupils with challenging behaviour.

This protocol has been formulated to ensure its compliance with the School Admissions Code and Equality Act 2010. It seeks to ensure that there is no discrimination against pupils, parents or carers because of their sex, race, disability, religion or belief and sexual orientation or pupils who are pregnant or undergoing gender reassignment. The exception to the discrimination provisions for schools that existed under previous legislation is admissions to single-sex schools.

All LA officers and school staff must adhere to this protocol. Internal and external auditors may complete monitoring exercises on an ad hoc basis to ensure full compliance, fairness and transparency.

2. Consultation and review

This protocol is developed in consultation with the LB Hounslow School Admission Forum and reviewed annually in the summer term to ensure compliance with statutory and local requirements. Where statutory changes are required these will be applied in accordance with legislations which maybe outside our normal timeframe for change.

The Hounslow Education Partnership Board (HEP) are consulted on the recommendation of the School's Admissions Forum. The protocols will be reviewed annually in the summer term and any changes will come into force in September for the start of the new school year unless statutory changes are required before this date.

3. Publication

This protocol will be published:

- On London Borough of Hounslow website (school admissions)
- Via links from the websites of all academies and schools located within Hounslow

Copies are available on request:

- By email from exclusions@hounslow.gov.uk

4. Scope

The law does not allow the Fair Access Protocol to be applied to the coordinated arrangements for the normal points of entry / transition, which are:

- Reception
- Infant to junior transition
- Primary to secondary transition
- Transition to an Atypical school (schools who admit outside the normal points of standard school transition points (Studio Schools and University Technical Colleges).

Pupils can be placed in either a mainstream school or Alternative Provisions, depending on the circumstances of each pupil. The protocol mainly applies to In-Year admissions to mainstream.

This protocol seeks to ensure that, outside the normal admissions round, unplaced children, especially the most vulnerable, are offered a school place as quickly as possible. The protocol, therefore, provides for the efficient processing of applications and identification of children who may be particularly vulnerable. Such vulnerability may be due to a child having missed a significant period of formal schooling or having had difficulties in their previous school setting which have not been satisfactorily resolved. Where, for example, a child has unresolved issues in relation to challenging behaviour, the Local Authority, through the exercise of this protocol, will take steps to offer a suitable education setting and to avoid allocating a disproportionate number of previously excluded children, or those with challenging behaviour, to any Hounslow school.

The law does not allow the protocol to be applied for children:

- With an Education Health and Care Plan (EHCP)
- Who are currently Looked After or previously looked after

These children must be placed using the relevant statutory and local processes. Eligible categories of children in the groups above are set out in Section 6.

5. Identification of pupils for consideration under Fair Access

Pupils for possible consideration under this Fair Access protocol may be identified via:

- Information supplied by the applicant via the non-mandatory sections of the In-Year school admission common application form (CAF) – and then only where consent is given
- allocations of school places outside the waiting list due to lack of vacancies and high demand of application in a certain year group
- Pupils' previous school, pupil referral unit, alternative provision and/or local authority
- Health services or support professionals, as relevant, in the case of children with SEN, disabilities or medical conditions
- Elective Home Education services
- Social Care

- Police or the Youth Offending Team

The above list is not exhaustive.

Other than for permanently excluded pupils, to comply with the Admission Code and General Data Protection Regulation (GDPR), information cannot be shared with parties other than by the new named school other than for Fair Access purposes. This means information cannot be requested by Pupil Services or an Own Admission Authority school at the application process, it can only be requested post offer – unless the applicant requests otherwise.

If, during the admission process, information is received by the named school that may warrant the pupil being considered under Fair Access, admission may be deferred under 3.10 of the Admissions Code pending discussion at the next Fair Access Panel (See Fair Access Panel terms of reference).

In some instances, a school may wish to admit a pupil but refer the case to the Fair Access Panel for possible recognition of the admission in Fair Access figures.

In case of the need for an emergency placement that cannot await the next sitting of the Fair Access Panel, it will be possible for a Chairs Action to consider the case and ratified at the next Fair Access Panel meeting.

In all cases the LA's duty to safeguard the child is paramount. Children out of school may be at risk; with the Admission Team, Early Intervention Service and other relevant representatives of the LA must do their utmost to ensure that children are not out of school for extended periods of time.

6. Pupils for consideration under this protocol

These are mandatory and set by the Department of Education's School Admissions Code – September 2021:

- 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 Fair Access Panel
- b) children living in a refuge or in other relevant accommodation at the point of being referred to the Fair Access Panel
- 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 Fair Access Panel in accordance with paragraph 3.10 of the Admissions Code
- k) children for whom a place has not been sought due to exceptional circumstances
- 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.

7. Identification and placement information

Looked After Children:

For the purposes of school admissions and fair access, looked after and previously looked after children will be considered to be Children who are looked after by a local authority or were previously looked after but immediately after being looked after, became subject to an adoption, child arrangements, or special guardianship order. A looked after child is a child who is (a) in the care of a local authority, or (b) being provided with accommodation by a local authority in the exercise of their social services functions (see the definition in Section 22(1) of the Children Act 1989). Looked after or previously looked after children include those children who appear (to the admission authority) to have been in state care outside of England and ceased to be in state care as a result of being adopted. A child is regarded as having been in state care outside of England if they were in the care of or were accommodated by a public authority, a religious organisation, or any other provider of care whose sole or main purpose is to benefit society. For looked after children but not previously looked after the Local Authority may direct any maintained school, including those who are their own admission authorities, to admit a child in care if that school is best suited to his or her needs, even if that school will then be above their published admission number. Where preference for admission to an academy is not granted, the case may be referred to the Secretary of State for direction. Looked After Children cannot be considered under Fair Access and will not be discussed at the Pupil Placement Panel unless they are permanently excluded.

Children from the criminal justice system or Pupil Referral Units:

Children from the criminal justice system or attending PRUs who are ready to be reintegrated back into mainstream education will automatically be referred to the Fair Access Panel in order to identify suitable placement. In such cases, the panel will be provided with a risk assessment in addition to the standard information in

order to assist them in making a decision about whether mainstream schooling is a suitable option. The Youth Offending Team will ensure a fully completed 'In-Year' Application Form is submitted by the parent/carer.

Children being reintegrated into mainstream education from a Pupil Referral Unit (PRU):

Pupils returning to education following a placement by the LA in a PRU will automatically be referred to the Fair Access Panel in order to identify a suitable placement. This will not apply to children on a short term directed placement at a PRU arranged by their school or education provider.

Permanently excluded pupils:

Pupils who have been permanently excluded from school and/or are being reintegrated to mainstream education will be placed using the Fair Access Protocol.

Children out of education for 4 weeks or more

Any child whose parent/carer has not completed an in-year application form despite being encouraged to do so will automatically be referred to the Fair Access Panel to identify a suitable placement. Where an education provision has been named and the family does not engage, the case will be referred to the Education Welfare Service (EWS). This does not apply to children who have been offered/allocated a school place by the Admissions Team or those who are on roll at a school and refusing to attend or have poor attendance, these follow a separate process.

Homeless children

For admissions purposes only children whose family meet the statutory definition of homeless and who Hounslow Social Care identify as needing additional support with a school placement will be referred to the Fair Access Panel. All other homeless children will be placed under the standard admissions processes.

Children with an Education Health and Care plan and children for whom the statutory assessment process has been initiated

These pupils cannot be considered at the Fair Access Panel. These children must be placed via the statutory consultation process.

Children with disabilities or severe medical conditions:

These are children for whom the Local Authority determines that only one or a small number of schools located in the borough can meet their needs, they will not be considered at the Pupil Placement Panel.

Children who are carers

Children identified by Social Care as formal 'carers' will be considered under this protocol and their placements will be included in the figures. Self-identified carers will not be considered without confirmation of their carer status from Social Care.

Religious Affiliations

Pupils who are identified as having a proven strong religious affiliation will be matched where possible to a suitable faith school – but this will not override the decision of the Panel.

Children who have been removed from a school roll to be Electively Home Educated

Children who have been removed from a school roll by their parent/carer, to educate them at home, where no evidence has been seen by the EHE Team, the EHE Team will encourage the family to complete an in-year application form, if they do not comply the EHE Team will refer to Children Missing Education (CME) for the child to be considered under the Fair Access arrangements.

Children whose families are applying for them to return to mainstream education after a short period of education overseas or in another local authority (children who lost a school place due to an extended holiday are not considered in this group)

Children who were on roll at a LB Hounslow mainstream school but were removed from roll as their parent advised they were being educated overseas. It applies where a short time after moving abroad the parent advises the child has returned to live in Hounslow and submits an In-Year application for them to return to mainstream education in Hounslow.

8. Fair Access Panel (FAP)

The Fair Access Panel is the Local Authority's recognised body for considering the placement of 'hard to place', vulnerable children and those with challenging behaviour which includes those identified as Fair Access under this protocol, as set out above. The Fair Access Panel membership includes all head teachers (on a rota basis), a wide range of LA officers and other professionals including the Police.

Panels are held fortnightly (on Wednesdays) during term time.

9. Operating principles for successful application of this protocol

- All schools are required to comply with this protocol
- All schools located in Hounslow share a collective responsibility with the LA to ensure swift admission to a suitable school or alternative provision for all children of compulsory school age who are resident in Hounslow who do not have a school place or who otherwise match the criteria for consideration, as described above
- No school, including those with available places, is required to take a disproportionate number of children who have been excluded from other schools, or who have challenging behaviour
- FAP discussions and decisions should reflect a fair and transparent balance between finding a place quickly (e.g in an undersubscribed school) and finding a place that is appropriate for the child;
- It is recognised that the LA has a duty to provide suitable education for its residents of compulsory school age for whom an application is submitted, irrespective of the location of a child's current education provider
- All fair access placement decisions should take into account the needs of the child and those of the community of any proposed school
- When choosing suitable placements for pupils under this protocol, due consideration should be given to the additional challenges faced by schools who have been identified by Ofsted as being 'inadequate' or 'requiring

improvement', where that has led to a 'notice to improve' or a school has been in special measures within the preceding 12 months

- Head teachers, or their representatives, making submissions regarding Fair Access cases should provide full and current information to enable the FAP to make its decisions effectively
- The named school will admit the pupil within a maximum 10 school days from formal notification of the Fair Access Panel's decision and will contact the family to arrange an admission meeting that may or may not require the attendance of the family
- Schools will not cite oversubscription as a reason for not admitting pupils legitimately placed under the protocol
- Pupils who are legitimately placed by the FAP will be given priority for admissions over others on a waiting list who may currently have a higher waiting list position. Placements using the Fair Access protocol are outside of the waiting list rules.
- Schools cannot insist that an admission appeal be heard before a pupil is admitted under the protocol.
- Due regard will be given to the Infant Class Size regulations, noting that there are some circumstances where a child may be admitted into an infant class which is full as an 'excepted pupil'
- FAP decisions cannot override the statutory right of parents to express a preference/make an application for a particular school, nor their right of an independent appeal where a place at such a school is refused
- Where possible, for continuity of education, when a Hounslow child has been educated at home for a short period, they may be offered a mainstream place at the school they departed before starting their elective home education. This decision will be made taking into account on their behaviour record before leaving the school.
- Where possible, for continuity of education, when a Hounslow child has been educated overseas or in another LA for a short period, they may be offered a mainstream place at the school they departed before moving abroad. This does not apply where the family took unauthorised leave or extended a period of authorised leave which resulted in the child losing their school place. This decision will be made taking into account on their behaviour record before leaving the school.
- No school will ask a parent/carer to withdraw a child from the school's roll. If a school continues to face difficulty with a child on their roll, such as poor attendance or challenging behaviour a referral should be made to the appropriate agency. If information comes to light that a school has taken a child off roll inappropriately and has not sought the appropriate support the local authority will refer to the Director of Education and Early Intervention Services.
- The protocol applies to pupils who are identified as hard to place from Reception through to Year 11.
- The fact that the published admission number may have been reached in a year group should not be given as a reason for not admitting a pupil under this protocol.
- Whilst each LA's Fair Access Protocol covers only the schools in its local authority area, it will sometimes be necessary to approach neighbouring authorities to request consideration under its Fair Access Protocol if all options within the borough have been exhausted.

- The educational needs of the pupil will be the prime factor in deciding a placement, but every effort will be made to ensure that practical issues regarding travel, including arrangements regarding siblings are considered.
- 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 the 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.
- Any out of borough in year applicants who meet the criteria in Section 4 will be referred to their home local authority by the In-Year Admissions Team. In these cases, parents will be advised of their right to appeal against this decision.

10. Managed Moves

Managed Moves do not form part of the Fair Access Protocol and there is no role for the local authority in the process, however Hounslow Education Partnership and non-Partnership schools should notify the LA of all successful managed moves that take place to enable the receiving school to receive a Fair Access credit.

Guidance on managed moves, what they are and how they should be used has been updated in the 'Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement' September 2023 (paragraphs 48-52).

It is recognised that the Fair Access Panel considers the movement of pupil's who are managed moves and the wider implications for schools when considering pupil placements under the Fair Access Protocol.

11. Fair Access documentation/evidence

In all cases, the Access to Education Team Leader will collate the paperwork to be reviewed by the Fair Access Panel members, this will be circulated on the Monday before each Panel meeting by the clerk. Occasionally, some paperwork may be sent out the next day. Paperwork shared at each meeting is confidential and must not be shared with anyone except for colleagues who are attending each meeting.

12. Deciding whether the pupil meets the Fair Access criteria

In all cases the members of FAP must decide for each pupil presented as Fair Access:

- Do the majority agree that the pupil meets the requirements of the Fair Access protocol?
- If no, the pupil will be referred to the Admissions Team for allocating a school and the allocated school must admit.
- If yes, does the child meet one of the statutory categories of Fair Access?
- If yes, which category?
- If no, which of the local Fair Access categories is the FAP placing under?

13. Outcomes

The possible outcomes available to the Panels for pupils under Fair Access are:

- Placement at a named mainstream school under standard admissions (not recognised by the panel as Fair Access)
- Placement at a named mainstream school as a statutory Fair Access placement
- Placement at a named mainstream school as a local Fair Access placement
- Dual registration with a mainstream school and alternative provision
- Full-time placement in alternative provision with a scheduled review for re-integration into a named mainstream school
- Full-time alternative provision
- Rejection where insufficient in-school additional support has been provided.

Following a decision by the FAP a formal notification letter will be sent to the named school. If no challenge is received, the placement will be confirmed to the family 5 school days after the named school has been notified, as FAP meetings are held fortnightly, this will happen in between meetings and the FAP will be updated at the next meeting. The named school must arrange for an admission interview and start date within 10 days. The paperwork must be sent securely to the named provision.

If a challenge is received, the placement will be reviewed at the next FAP meeting. If the pupil is out of provision, the challenge may be reviewed as a Chair's Action and ratified at the next FAP meeting.

Schools must notify the Admissions Team via the starter/leaver process of the start date in each case confirming that the child is on roll.

If the family does not engage, the Panel will request the support of the School Attendance Support Service. If a School Attendance Order is required this will be referred to the Child Missing Education Officer, the school identified by the Fair Access Panel will remain the designated school.

14. Refusals to admit

Where a school is identified by the Admissions Team as part of the normal In-Year admission process, and where such a school believes that the pupil meets one or more of the criteria set out in Section 6 above, the school may refer the case to the Fair Access Panel, setting out why the case should be discussed under Fair Access procedures by the panel. However, if the panel disagrees with the reasons for referral, or determines through exercise of this protocol that the school which brought the referral is the most appropriate setting for the pupil, the originally proposed allocation may be upheld.

If information obtained by the named school, which was not available or was not supplied by the current/previous school, has resulted in the named school being

misled, a referral can be made to the Fair Access Panel. This means if a child is offered a place at a school under the normal admission arrangements or via the Fair Access Panel and it is subsequently found that the offer had been based on fraudulent or deliberately misleading information provided by the family or the child's current/previous school, and if the child has not yet been admitted to the new school, the matter can be referred to the Fair Access Panel for consideration under Fair Access procedures. Whilst this may, or may not, lead to a different school being named, it would enable the admission to be credited to the Fair Access figures of the receiving school, if appropriate.

In the event of a school refusing to accept the decision of the Fair Access Panel the Local Authority can direct or instruct the school to admit. The governing bodies 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 ESFA.

15. Monitoring and record keeping

- The Access to Education Team Leader is responsible for establishing and maintaining a clear and transparent log of placements in order to underpin the fairness of the decision-making process
- Fair Access statistics will be shared with Headteachers, Hounslow's School Admission Forum and the Vulnerable Students Group which is part of the Hounslow Education Partnership at the end of the Academic Year in order to monitor the performance and effectiveness of the protocol.

Monitoring and Evaluation will include:

- The exclusion rates – in particular the exclusion of vulnerable groups
- The numbers of pupils reintegrating successfully back into mainstream
- Finance and monitoring of placements will be managed by the Placement and Monitoring officer.

16. Figures and statistics

The Access to Education Team Leader will maintain Fair Access information. Figures and statistics will be tabled at each meeting and will be reviewed on an annual basis at the end of the academic year, and from time to time during the year.

17. Financial Matters

Fair Access admissions do not attract any additional funding. Where the FAP determines that a child cannot be admitted to a mainstream school, and names an Alternative Provision, the panel will determine whether the placement is funded by High Needs or by the HEP.

Where schools are asked to accept children above their admission number these will be funded according to Hounslow's pupil-based formula. When a child is excluded from a maintained school, the remaining portion of that child's AWPU (age-weighted pupil unit) may be recovered from the school and passed to the admitting school. For Academies, they may recover the AWPU direct from the

excluding school. These arrangements apply to children up to and including year 11.

18. Annual Review of Protocol

The Fair Access Protocol will be reviewed by the Local Authority and will form part of the annual statutory consultation process on Admission arrangements.

In accordance with 3.23(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.

Fair Access Panel Proforma



**London Borough
of Hounslow**

Children's & Adults' Services
Fair Access Pupil Referral Form

Pupil Details: CONFIDENTIAL										
Existing school:										
Forename:					Surname:					
Address:							Post code:			
Parent/Carer Name:										
Contact Telephone Number:			Home:			Mobile:				
DOB:		Year group:		UPN:		M: <input type="checkbox"/>	F: <input type="checkbox"/>			
Fair Access Category: (please tick appropriate category)										
(a) <input type="checkbox"/>	(b) <input type="checkbox"/>	(c) <input type="checkbox"/>	(d) <input type="checkbox"/>	(e) <input type="checkbox"/>	(f) <input type="checkbox"/>	(g) <input type="checkbox"/>	(h) <input type="checkbox"/>			
(i) <input type="checkbox"/>	(j) <input type="checkbox"/>	(k) <input type="checkbox"/>	(l) <input type="checkbox"/>	(m) <input type="checkbox"/>						
Religion (if known):					Home Language:					
EAL stage:			Looked After Child: Yes <input type="checkbox"/> No <input type="checkbox"/>			Social Care Involved: Yes <input type="checkbox"/> No <input type="checkbox"/>				
EHCP: <input type="checkbox"/>		EHCP: <input type="checkbox"/> (under assessment)		SEN Stage: <input type="checkbox"/>		YOS: <input type="checkbox"/>				
Information Required:										
Stated School Preference:										
Previous School History: (including dates)							From:		To:	
							From:		To:	
Date last in school:										
Academic Attainment:										
Attendance Summary:										
Suspensions:										
Permanent Exclusions:										

Reason for Referral:

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Parents Comments:

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Pupils Comments:

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Schools Comments:

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Any Other Relevant Information:

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Reported Compiled by:

Signed: _____

Date