

Brighton & Hove Primary Fair Access Protocol (FAP)

This Protocol will apply equally to all infant, junior and primary schools in Brighton & Hove including Academies and Free schools

The School Admissions Code issued by the Department for Education is mandatory, meaning that it is not guidance, but has the force of law. The current Code which came into force in December 2014 states that all local authorities must have a Fair Access Protocol. This Protocol must ensure that children who are admitted outside the normal admissions round (ie. at ages 4+, 7+ or 11+ as appropriate) especially the most vulnerable, are offered a place at a suitable school as quickly as possible.

Fair Access Protocol

1. The operation of the Primary Fair Access Protocol (FAP) is outside the arrangements for co-ordination and the school's normal admission arrangements, and is triggered when a parent of an eligible child has not secured a place under routine in-year admission procedures.
2. All admission authorities (this includes all Academies, Free and Voluntary Aided schools) as well as community schools, must participate in the Primary FAP. Schools must not restrict the number of admissions under the Primary FAP because applications do not comply with their 'normal' admissions arrangements (e.g. religious affiliation). Such issues will be considered when making allocations, but will not be an overriding factor in determining whether the allocation is made, to ensure that the admission of vulnerable children will be made as fairly as possible across all schools. However, with regard to religious affiliation, allocations will be made in accordance with the school's religious ethos where possible.
3. When the governors of a school does not wish to admit a pupil with challenging behaviour (Group 1, Appendix 1) due to a high proportion of pupils with challenging behaviour (Appendix 2), the pupil must to be referred back to the School Admissions Manager under the Primary FAP for discussion at the Behaviour and Attendance Partnership Group (BAP) meeting.
4. All schools, regardless of status, when asked to admit a child through the in-year process who is subsequently found to have challenging behaviour as defined below, can refer the case back to the School Admissions Manager for action under the Primary FAP. If the child has already been offered a place through the in-year co-ordination and is subsequently found to fit Group 1, details will be given at the BAP meetings. Where it is agreed that cases fit the Group 1 Primary FAP criteria, they will be recorded against the school's Primary FAP allocations.
5. The School Admissions Manager will be responsible for identifying schools to place eligible children as fairly as possible, and will produce regular lists for discussion at the regular BAP meetings if necessary.
6. When allocating eligible children in Key Stage 1, the School Admissions Manager will have due regard to the infant class size legislation and the exceptions that apply under the School Admissions Code.

7. The School Admissions Manager has no duty to comply with parental preference when making allocations under the Primary FAP. If a school is named as a preference but the allocation is not to receive the pupil. This is important because refusing the parent's preference will trigger their right to appeal against the decision.

8. 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 apply for a direction to the EFA (Education Funding Agency) from the Secretary of State.

9. Admissions authorities must not refuse to admit a child thought to be potentially disruptive, or likely to exhibit challenging behavior, on the grounds that the child is first to be assessed for special educational needs. Admissions authorities must not refuse to admit a looked after child, a previously looked after child or a child with a Statement of Special Educational Needs or Education, Health and Care Plan naming the school in question, as these children **must** be admitted.

10. In order to ensure fair allocations, no school will be asked to take a disproportionate number of eligible children, even if there are places available at the school. **(See Appendix 2)**

11. Placement changes in lieu of permanent exclusions as agreed by BAP will be recorded against Primary FAP numbers.

12. No school can be considered 'full' for purposes of the Protocol, even where the Planned Admission Number has been reached or exceeded, particularly at the school's own volition. FAP allocations will take priority over any applicants on a waiting list or in a reallocation pool. However at Key Stage 1 the class size limit of 30 cannot legally be breached.

13. Schools should note that while every effort will be made to ensure fair allocations, the child's address and other family circumstances will be considered so that the school identified is within a reasonable distance from the child's home, and that attendance is not likely to be compromised by, for example, the need to transport other siblings elsewhere.

14. There will be no 'one-out-one-in' policy in relation to permanently excluded children, and no school will be required to take another child with challenging behaviour (Group 1, Appendix 1) in the place of a child excluded from the school. Therefore schools that do not permanently exclude will not be exempt from admitting children who have been permanently excluded from other schools.

15 When notifying headteachers of potential allocations, as much information as possible will be given, and this will include the name of the previous school, where known, so that headteachers can make enquiries about the student in question.

Deadlines for admission.

Generally, schools will be expected to admit a child under the FAP within ten school days from the date of allocation. This is intended to give sufficient time for schools to arrange a pre-admission meeting (not an interview) with external agencies and to arrange any necessary support for the child's reintegration (which may be provided by the Authority as necessary).

Occasionally, it may be necessary to admit a particularly vulnerable child in a shorter time. In these cases, the School Admissions Manager will consult with headteacher of the receiving school.

Allocation letters will be emailed to schools and parents, if they applied online, on the day of allocation.

Children for whom mainstream provision is assessed as inappropriate.

The majority of children will be placed through the normal admission procedures. However children with a Statement of Special Educational Need or Education Health and Care Plan are not included in this protocol as their needs and mainstream school placement will be considered separately by the SEN Panel. In exceptional circumstances, where BAP assess that the needs of a child cannot be initially met by a mainstream school placement, they will agree access to alternative provision which will be provided by the Pupil Referral Unit.

Composition of Primary FAP

The function of the Primary FAP is carried out by the BAP.

Appendix 1- Fair Access Protocol Criteria.

The School Admissions Code sets out the minimum criteria applicable to compulsory school aged pupils as follows:

- Children from the criminal justice system or Pupil Referral Units who need to be reintegrated into mainstream education;
- Children who have been out of education for two months or more;
- Children of Gypsies, Roma, Travellers, refugees and asylum seekers;
- Children who are homeless;
- Children with unsupportive backgrounds for whom a place has not been sought;
- Children who are carers and
- Children with special educational needs, disabilities or medical conditions (but without a Statement or Education Health and Care Plan)

However, it is proposed that the following (more prescriptive) criteria are adopted for clarification for all parties as to which children qualify, and for consistency.

The protocol will be divided into four sections covering the following groups of children:

Group 1 Children who present with challenging behaviour*:

- Permanently excluded children, including those attending PRUs who need to be reintegrated back into mainstream school
- Children supported by the Youth Offending Service or returning from the criminal justice system
- Children who are out of any education provision and have been so for two months or more
- Children who have moved into the city with an established history of exclusion (either permanent or 2 or more fixed term exclusions within the previous 12 months)
- Children who currently attend school in Brighton & Hove and are supported in their current school in an SEN category for SEMH or who have a recent history of fixed term exclusion and/or are at risk of further exclusions.

Group 2 Vulnerable children at risk of being out of school:

- Children of refugees and asylum seekers
- Gypsies, Roma or Traveller children
- Homeless children
- Children who have been educated at home for at least the previous term and need to be readmitted to a school
- Children with unsupportive family backgrounds for whom a place has not been sought
- Children known to the Youth Offending Service the police or other agencies
- Children without a school place and with a history of serious attendance problems (i.e. with less than 60% attendance over the previous 12 months)
- Children who are carers

Group 3 Other vulnerable children:

- Children who are looked after (LAC) and previously looked after children but ceased to be so because they were adopted (or became subject to a residence order or special guardianship order)
- Children with special educational needs, disabilities or medical conditions (but without a statement)

Group 4 Other children:

- Children who have moved into the area for whom there is no school place because all schools within a reasonable distance are full
- Children of UK services personnel and other Crown Servants

As children within group 1 can prove especially challenging for schools, all allocations in this group will be made via this protocol, where this is evident before the allocation is made. Children in all the other groups will be allocated to schools in the 'normal' way unless it is evident that issues arising from their circumstances make admission problematic.

The four categories above will be the threshold for any child allocated through the normal in-year admissions process to be referred back to the Local Authority for action under the Protocol as described in Paragraph 3.12 of the School Admissions Code 2014. This will only be applicable if the school (or Academy) has reached its Published Admission Number in that year group, or where the school (or Academy) has a 'particularly high proportion' of such students already on roll. As the Code does not define 'particularly high proportion', in Brighton & Hove we have reached a definition which is attached as Appendix 2.

Appendix 2

Schools with a 'particularly high proportion of students with challenging behaviour'

As the School Admissions Code does not define these terms, local agreement needs to be reached as to what is a 'particularly high proportion' of pupils with challenging behaviour, and what other factors should be considered in deciding on the placement of a challenging child. Any parent who is refused a place for their challenging child at a school of their preference will have the right to appeal for a place there, so each school wishing their admission authority to refuse to admit a child on this basis will need to make a well-evidenced case that they have a particularly high proportion of such pupils on roll already and that the admission of another would compromise educational provision at the school.

It would be helpful to know in advance if any school has concerns about admitting challenging pupils in a particular year group, as this can form the basis of negotiation with the parents prior to an allocation being made. However it is important to realise that there will be occasions when schools will still have to be asked to admit children in these circumstances.

Factors which might make a school particularly vulnerable to the admission of challenging pupils may include:

- A significant number of pupils with a history of fixed term exclusions, internal behaviour record or being supported in an SEN category for SEMH in the same year group
- A considerable number of pupils with safeguarding issues (LAC/CIN/CAF) in the same year group
- Substantial high pupil mobility/low attendance
- Significant high numbers of pupils on Free School Meals
- Particularly high numbers of pupils with SEN
- School is in an OFSTED category
- School has a high turnover of staff/vacant headship.

This list is not exhaustive and it is the overall picture which will be considered. The first bullet point is the most important as this is the only legal ground for refusing to admit a child if this is the parents' preference, unless the school is full. This will be determined by the Primary FAP in consultation with relevant partners.

Saul Johnston. May 2017