



**Havering**  
LONDON BOROUGH

***Fair Access Protocol (FAP) 2022/2023  
for all  
Havering Schools & Academies***

***This policy reflects the Local Authorities responsibility for safeguarding and promoting the welfare of children and their educational attainment and achievement***

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## Fair Access Protocol Version Control

Changes	Page
2022/2023 - Complete review to the 2021/2022 FAP Protocol to comply with new DfE Fair Access Protocol (August 2021) and Schools Admissions Code (September 2021)	All pages

### 1. Introduction

This document sets out the Fair Access Protocol which will be operated by the London Borough of Havering in partnership with its schools and academies during the academic year 2022/23. It should be read in conjunction with the following DfE publications.

- Fair Access Protocol Guidance - August 2021
- School Admissions Code - September 2021

### 2. Principals of the Fair Access Protocol

- 2.1 The Department for Education states that each local authority must have a Fair Access Protocol to ensure that unplaced and vulnerable children, and those who are having difficulty in securing a school place in-year, are allocated a school place as quickly as possible.
- 2.2 All admission authorities **must** participate in the Fair Access Protocol. Participation includes making available a representative who is authorised to participate in discussions, make decisions on placing children and admit children when asked to do so in accordance with the Protocol, even when the school is full. Failure by a school to engage in the Protocol will not prevent a child being placed at that school.
- 2.3 This Protocol has been developed in partnership with all schools in Havering and has been consulted upon in line with legislation.
- 2.4 As with all matters relating to school admissions and inclusions, it is the responsibility of admission authorities to ensure that their admission

- arrangements and procedures are compliant with the 2021 School Admissions Code. Where a school is the admission authority, this responsibility falls to the Governing Body or Academy Trust.
- 2.5 All Havering Head Teachers and Governing Bodies agree to the aims, principles and procedures laid out in this Fair Access Protocol by recognising their collective responsibility and continuing to provide their fullest support.
  - 2.6 Havering schools will work collaboratively to support and manage vulnerable children by encouraging the best outcomes, and continuing to work together in unity to maintain an inclusive ethos within Havering.
  - 2.7 The School Admissions, Attendance & Inclusions Team will work collaboratively with all schools and academies to support processes within the Fair Access Protocol.
  - 2.8 This Protocol sets out how the needs of children will be met for those who have been permanently excluded and are due to be reintegrated, and for children where mainstream education is not yet possible.
  - 2.9 The Fair Access Protocol may only be used to place the listed groups of vulnerable and/or hard to place children below, 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 usual in-year admission procedures.
  - 2.10 Fair Access Protocols **only** apply to children who are applying for a place **in year** and not those who are applying for a place as part of the normal admissions round.

### 3. Children eligible for the Fair Access Protocol

- 3.1 In order to be placed under this Protocol a child must meet all of the following criteria:
  - live in Havering
  - have a legal right to access state funded education
  - be seeking a place outside the normal admissions round (not reception, Year 3 if a junior school or Year 7)
  - be of statutory school age
  - meet at least 1 of the listed criteria below
- 3.2 This Protocol will only be used to place children who fall within one of the following groups where they have been refused a school place and where it can be demonstrated that reasonable measures have been taken to secure a place through the usual in-year admission procedure:
  - a) children either subject to a Child in Need Plan or a Child Protection Plan or having had one of these within 12 months at the point of being referred to this Protocol;
  - b) children living in a refuge or in other Relevant Accommodation at the point of being referred to this Protocol;
  - 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 & 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, Travelers, 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 School Admissions Code.
- k) children for whom a place has not been sought due to exceptional circumstances. (It is for the local authority to decide whether a child qualifies to be placed under this category, based on the circumstances of the case).
- l) children who have been out of education for four 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.*
- m) previously looked after children for whom the local authority has been unable to promptly secure a school place.

#### 4. Admission authorities must not refuse to admit an in year application because:

- They would be, or they believe they would be, eligible to be placed via this Protocol
- Information has not been received from their previous school
- They are a Looked After Children, previously Looked After Children or children who have an Education, Health and Care Plan naming the school in question on the basis of challenging behaviour
- They are 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.

#### 5. What is challenging behaviour?

- 5.1 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 misbehavior or it is of such severity, frequency, or duration that it is beyond the normal range that schools can tolerate. We would expect this behaviour to significantly interfere with the pupil's/other pupils' education or jeopardise the right of staff and pupils to a safe and orderly environment.
- 5.2 Admissions authorities should consider the Equality Act 2010 and the effect and implications of a decision to refuse a pupil who exhibits challenging behaviour as a consequence of a disability.
- 5.3 The following reasons on their own **should not** be grounds for considering that a child may display challenging behaviour:
  - poor attendance elsewhere
  - a defined number of suspensions, without consideration of the grounds on which they were made

- special educational needs, or having a disability
- 5.4 All schools have a duty to make reasonable adjustments for students with disabilities. Schools should be aware that a child who displays challenging behaviour may do so as a result of their disability or any unmet needs. Schools must therefore consider whether any reasonable adjustments can be put in place to support the needs of a particular child when considering whether admission should be refused on these grounds.
- 5.5 Where an admission authority does not wish to admit the child because it has good reason to believe that the child may display challenging behaviour, it may refuse admission and refer the child for placement through this Protocol, only if the school has a particularly high proportion of either children with challenging behaviour or previously permanently excluded pupils on roll compared to other local schools; and it believes that admitting another child with challenging behaviour would prejudice the provision of efficient education or the efficient use of resources.
- 5.6 At the point of refusal, schools must provide evidence, data and information which supports their claim that they have either a high proportion of children with challenging behaviour or pupils who were previously permanently excluded.

## 6. The Fair Access Protocol panels

- 6.1 Panels will be held on a monthly basis and will be chaired by a senior member of staff from the Local Authority. All meetings will be held virtually (via Microsoft Teams) at 8:15am for Secondary and 9:00am for Primary Phase on the following dates:
- Wednesday 14 September 2022
  - Thursday 20 October 2022
  - Tuesday 15 November 2022
  - Wednesday 14 December 2022
  - Thursday 19 January 2023
  - Tuesday 21 February 2023
  - Wednesday 15 March 2023
  - Thursday 27 April 2023
  - Tuesday 16 May 2023
  - Wednesday 28 June 2023
  - Tuesday 11 July 2023
- 6.2 Primary schools cluster leads will be invited when a primary case is referred
- 6.3 Secondary representatives will be invited when a secondary case is referred
- 6.4 All panels must be quorum of 5 for decisions to be made
- 6.5 Cases will be evaluated by School Inclusions to provide a recommendation based on the research listed below **in preparation for the panel to make a decision:**
- each schools vulnerability data **to ensure no school is asked to take a disproportionate number of children via the FAP.**
  - schools who are significantly over PAN within the year group
  - whether a school is in special measures, has recently come out of

them or is otherwise assessed by the local authority as needing support

- the needs of the child
- parental preference
- research with partner agencies will be conducted which will include the NHS, Police, Youth Justice Service, Social Care, Virtual School, Drug Services and previous school etc.
- whether a school has a particularly high proportion of children with challenging behavior or previously excluded children
- children already admitted to a school under this Protocol to each year group
- any genuine risk concerns by either the parent / carers about the admission
- a strong view of the parent / carers about the religious ethos of a school
- distance of each school
- number of previous schools attended
- children returning from Elective Home Education or Children Missing Education

- 6.6 Case history will be shared 48 hours prior to the FAP panel with representatives outlined in point 6.2 and 6.3.
- 6.7 The LA representative will present the case in its entirety
- 6.8 The referring school (if Havering) to provide further information
- 6.9 Panel members will have opportunity to ask questions
- 6.10 Panels are expected to consider the case for each child and agree a placement at the most suitable school
- 6.11 All cases are open to overview and scrutiny by the LA and FAP Panel as part of the decision making process
- 6.12 The delegated representative at the panel will not need to seek prior or subsequent authorisation from their governing body to admit a fair access child. When a child is placed in accordance with this Protocol, the admission authority for that school must admit the child.

## 7. FAP timeframe for placing a pupil on school roll

- 7.1 Once a pupil has been allocated a school place via this Protocol, arrangements must be made for the child to start at the school within 10 school days.
- 7.2 The receiving school must make contact with the family to arrange for the child to be placed on their school roll as soon as possible, but no later than 10 school days of the offer being made through the FAP Panel.
- 7.3 Where a child is being placed from a Havering PRU or Alternative Provision, the child should be removed from that PRU or AP's roll and **must not** continue to be dual registered.
- 7.4 Support is available via Inclusions when required, for pupils who are transferring into **another** Havering mainstream school via this protocol, or if they are reintegrating from a PRU or AP. (see re-integration policy)

## **8. Mitigation where placements cannot be agreed**

- 8.1 In the unlikely event where there is a refusal to admit a pupil through the FAP panel, the Local Authority will follow due process in order to instruct a community or voluntary controlled school, or direct a school that is its own admissions authority to admit the child. This includes making a referral to the Secretary of State in relation to academies.

## **9. Data and reporting**

- 9.1 A log of all placements made through this Protocol will be maintained by the Inclusions Team and reported to schools at each panel.
- 9.2 As part of its annual report to the Office of the Schools Adjudicator (OSA), Havering is required to report on the effectiveness of this Protocol, including how many children have been admitted to each type of school. The Code states that annual reports to the OSA must be produced by 31 October each year and must be published locally on the LA's website.

## **10. Review of the Fair Access Protocol**

- 10.1 This Protocol will be reviewed and updated in line with the Department for Education School Admissions Code and Fair Access Protocol Guidance.