



HILLINGDON

LONDON

Fair Access Protocol 2023

1. Introduction

As set out in the School Admissions Code 2021, all local authorities must have a Fair Access Protocol (FAP) to ensure that outside the normal admissions rounds, unplaced children, especially the most vulnerable, and those who are having difficulty in securing a school place in-year, are allocated a school place as quickly as possible.

The Protocol covers children of compulsory school age as set out below. The operation of Fair Access Protocols is outside of the arrangements of coordination and is triggered when a parent of an eligible child has not secured a place under in-year admission arrangements. It must be agreed by (all/the vast majority of) schools and applies to all admissions authorities in Hillingdon, including Voluntary Aided, Academies, Foundation and Free Schools.

The protocol also aims to ensure that no school, including those with available places, is asked to take a disproportionate number of children who have been excluded from other schools or who have challenging behaviour. Where required, schools must exceed their planned admissions number to admit children referred under the protocol.

2. Legal Framework

For local authorities

2.1 Local authorities have a legal duty to ensure that all children of compulsory school age, regardless of their needs and circumstances, are in receipt of suitable full-time education (Section 19, Education Act 1996) unless reasons that relate to their medical condition mean that this would not be in their best interests (Section 3 of the Children, Schools and Families Act 2010).

2.2 Every local authority must have a Fair Access Protocol, agreed with the majority of schools in its area, to ensure that – outside the normal admissions round - unplaced, children, especially the most vulnerable, are offered a school place as quickly as possible (Paragraph 3.14 of the School Admissions Code 2021).

2.3 The protocol must include how the local authority will use provision to ensure that pupils whose needs cannot be met by mainstream schools will receive their educational entitlement.

2.4 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 excluded from other schools or who

have challenging behaviour, including requiring a school automatically to take another child with challenging behaviour in place of a child excluded from school.

2.5 The protocol aims to support the safeguarding of children and young people by ensuring that they are accessing education and may only be used to place groups of vulnerable and/or hard-to-place children (Paragraph 3.17 of the School Admissions Code 2021).

For schools

2.5 All local authorities must have a Fair Access Protocol. Once it is agreed with the majority of schools in its area, all admission authorities must participate in it (Paragraph 3.14 of the School Admissions Code 2021).

2.6 Admission authorities must not refuse to admit a child 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 (Paragraph 3.13 School Admissions Code 2021).

2.7 Where an admission authority receives an in-year application for a year group that is not the normal point of entry and it does not wish to admit the child because it has good reason to believe that the child may display challenging behaviour, even though there are places available, may refuse admission and refer the child to the Fair Access Protocol. An admission authority should only rely on provision (Paragraph 3.10 School Admissions Code 2021) if it 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 considers that admitting another child with challenging behaviour would prejudice the provision of efficient education or the efficient use of resources. This provision will not apply to 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. (Paragraph 3.12 School Admissions Code 2021).

For parents

2.8 Parents have a legal responsibility to ensure that all their children of compulsory school age are receiving a suitable education (Section 7, Education Act 1996).

2.9 Parents can express a preference for the schools they wish their child to be considered for, but if their child is allocated a place under the Fair Access Protocol, there is no duty to comply with parental preference (Paragraph 3.19, School Admissions Code). However, parental wishes will be taken into account in making allocations where possible.

3. Children covered under the Fair Access Protocol

3.1 The Protocol applies to the following children of statutory school age, who are living in Hillingdon (with the exception of UK service personnel as covered by Paragraph 2.21 of the School Admissions Code) and who have difficulty securing a school place.

The eligibility below is strictly in accordance with the School Admissions Code September 2021. When the below eligibility occurs, the placement of the pupil will be considered by the Fair Access Panel as follows:

- 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 Protocol.
- Children living in a refuge or in other Relevant Accommodation at the point of being referred to the Protocol.
- Children from the criminal justice system.
- 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.
- Children with Special Educational Needs (but without an Education, Health, and Care plan), disabilities or medical conditions.
- Children who are carers
- Children who are homeless.
- Children in formal kinship care arrangements.
- Children of, or who are, Gypsies, Roma, Travellers, refugees, and asylum seekers.
- Children who have been refused a school place on the grounds of their challenging behaviour and referred to the Protocol in accordance with paragraph 3.10 of this Code.
- Children for whom a place has not been sought due to exceptional circumstances.
- 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; and
- Previously Looked After Children for whom the local authority has been unable to promptly secure a school place.

3.2 Children not covered by the Protocol

The protocol does not apply to.

- Children already on roll at a school and seeking transfer to another school.
- Children who have been offered a school place within a reasonable distance, even if the offer is not for a preference school.
- Children who have not been offered a school place due to delays in a schools processing of an In-year admissions despite the school having vacancies.
- Schools will place back on roll any child that previously attended their school where the parent withdrew to home educate. This is where home education is judged to have failed in the view of the Local Authority within one school term of the child coming off the school's roll. Only when there are exceptional circumstances, that does not allow the child to return to the school and they meet one of the eligibility criteria will the case be referred for a Fair Access panel (where feasible, depending on location and phase).

3.3 The Department for Education's (DfE) proposals for the School Admissions Code allow for prompt decisions, ensuring that the children for whom the Fair Access Panel is intended to support are placed in school quickly.

3.4 Parents have the right of appeal against refusal to offer a place by an admissions authority. But if a parent chooses not to appeal to an admissions authority, this alone does not make them ineligible for referral to the Fair Access Panel.

4. Children with Challenging Behaviour

4.1 Definition of “Challenging Behaviour”

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. We would expect this behaviour to significantly interfere with the pupil’s/other pupils’

The Admissions Code also states that:

- Section 3.8 - Where a child has been permanently excluded from two or more schools there is no need for an admission authority to comply with parental preference for a period of two years from the last exclusion. The twice excluded rule does not apply to the following children:
 - children who were below compulsory school age at the time of the permanent exclusion.
 - children who have been reinstated following a permanent exclusion (or would have been reinstated had it been practicable to do so).
 - children whose permanent exclusion has been considered by a review panel, and the review panel has decided to quash a decision not to reinstate them following the exclusion; and
 - children with Education, Health and Care Plans naming the school.
- Admission authorities must not refuse to admit a child on behavioural grounds in the normal admissions round or at any point in the normal year of entry, except for where section 3.8 applies.
- The provision in section 3.10 cannot be used to refuse admission to looked after children, previously Looked After Children; and children who have Education, Health and Care Plans naming the school in question.
- Admission authorities must not refuse to admit a child 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. Operating Principles and Arrangements of the Fair Access Panel

5.1 The Role of the Panel

The local authority will establish a Fair Access Panel to oversee all Fair Access arrangements and monitor the effectiveness of the Protocol. The role of the Panel is to:

- Ensure the Panel is operating in accordance with the School Admissions Code 2021.
- Ensures the operation of the Fair Access Protocol will be fair and transparent and will include representatives of mainstream schools in the decision-making process
- Determine the school to be asked to admit a child in all categories of pupils covered by the Protocol.

5.2 Constitution

The Panel will be made up of:

- Four local authority officers nominated by the School Placement & Admissions Manager
- Minimum of four Hillingdon secondary Headteachers. This includes the Chair and Vice Chair, plus a minimum of at least two Headteachers will be present at each panel meeting.
- Two Hillingdon primary Headteachers

*Headteachers will not be required to attend Fair Access Panel Meetings if children in their phase of education are not being presented.

**If Headteachers are unable to attend, in their absence, they can send a representative on their behalf, such a member of their Senior Leadership Team.

The Chair and Vice-Chair will be Headteachers and will be agreed annually at the June Fair Access Panel Meeting. All Headteachers or senior leaders will be invited to attend this meeting, to agree the Chair and Vice Chair for the next academic year (where possible this meeting will be held in person). The Local Authority will be responsible for making the arrangements for the meetings.

Other officers involved in individual cases may be invited to attend to provide further information or for training purposes at the Panel's request e.g. Education Welfare officer, Youth Offending Team, Social Worker, Inclusion Support Team staff, etc.

For meetings to be valid, at least four members shall be present.

Meetings shall be conducted in accordance with the Council's Code of Conduct. The panel shall meet at least monthly (except during May and August). These meetings will be held both virtually (over Microsoft Teams) and in person. Where possible, once a term, the meeting will be held face-to-face at either the Council's Office or a Hillingdon school. This will be arranged by the local authority. The final meeting of the academic year will be held face-to-face.

5.3 Preparing the referrals

If an admissions authority has failed to respond within 15 school days regarding whether or not a place can be offered, every effort will be made to expedite matters with the school(s) concerned but the lack of response will not delay the referral of the case to the panel.

Where pupils fall within the Fair Access protocol and remain without an offer after In-Year processes, they will be referred to the Primary or Secondary Fair Access Panel, both of which will be chaired by a representative Headteacher, to identify a suitable school placement.

Once the pupils have been identified, the Senior Allocation and Access Officer in the School Placement and Admissions team will collate referral notes for each child and present the child at the next available Fair Access Panel.

The referral spreadsheet for both secondary and primary pupils will consist of the following information to assist the Fair Access Panels decisions about placements.:

- The pupil's date of birth and year group;

- Names of the school closest to the child's home address together with the schools named by the parents (Parental preference, including religious preferences, will be considered by the Panel but will not override the allocated school)
- Names and dates of birth of siblings attending any of the schools identified;
- Details of any known educational needs (previous school/country, language spoken, subjects previous studied, aspirations, any known SEN or behaviour concerns)
- The total number of pupils previously admitted via the Fair Access Protocol at each Hillingdon school in the academic year, by year group;
- Number of pupils on roll and total pupil capacity in the relevant year group;
- The total number of pupils previously admitted as a result of successful managed moves, by year group.

The referral spreadsheet will be circulated to every school via document exchange at least five days before the scheduled meeting, where possible.

Each school will be expected to review the referral spreadsheet prior to the scheduled meeting (even if they are not scheduled to attend the meeting). Any comments they wish to be made known on any of the cases, must be provided to the local authority prior to the scheduled meeting in order for the information to be considered as part of the allocation of a school placement for that child (a response is only required if there are any particular concerns, or relevant information you wish the panel to be aware of in advance).

No school is to contact families prior to the scheduled meeting.

5.3 Decisions of the Panel

The Fair Access Panels will ensure that no school is asked to admit a disproportionate number of unplaced children with challenging behaviour and will not expect a school automatically to take another child with challenging behaviour in place of a child excluded from school (Paragraph 3.14 School Admissions Code).

The Fair Access Panels will allocate pupils to both over and under-subscribed schools on a fair, equitable and consistent basis. Schools are expected to admit children allocated by the panel including when the allocation was made in the absence of a representative from the school.

The Fair Access Panel will consider the following information when placing pupils:

- Comments from schools on particular children, if received.
- An equal distribution by number to each school (as far as possible over the course of the year).
- The school is within 2 miles walking distance (if below the age of 8). Best practice suggests that the maximum length of journey each way for a child of primary school age to be 45 minutes and for secondary school age 75 minutes, but these should be regarded as the maximum.

The following information will also be considered in relation to secondary schools, before every Fair Access Panel meeting:

- Current on roll numbers for all year groups, including any vacancies, the number of Looked After Children, in receipt of SEN (Special Educational Needs) support or have an EHCP (Education Health and Care Plan) on roll in each year group, in each school.

- Number of children successfully reintegrated back into a mainstream school, following a permanent exclusion, in each school.
- Any additional submitted information schools would like the Fair Access Panel/ local authority to be aware of.

All secondary schools are requested to provide the School Placement and Admissions team with their school's vacancy information. A spreadsheet template is circulated to each secondary school including the dates prior to each meeting which must be completed and returned to us by the Friday before the next scheduled meeting. Failure to provide this prior to each meeting may result in the panel allocating children that exceed over 2% of a school's Published Admission Number (PAN).

The Panel, when allocating placements, will be considerate of any school that has admitted over 2% of their PAN in that particular year group.

When considering children with Challenging Behaviours, in addition to allocating places proportionally, the Panel will also consider.

- The circumstances of each case and whether the pupil's needs can be met by mainstream schooling.
- If not, the Panel will refer the pupil to The Skills Hub who will assess the pupil's needs and build an appropriate individual programme as required. This would only be in exceptional circumstances, and usually with a view to reintegrate the child back into mainstream school, within 4-12 weeks.
- The Panel will be aware of the support available for commissioning or referral but will not make recommendations for what the support to be provided to the school and reintegration plan (if applicable). It is for individual schools to access support services as they see fit. The parent would be advised of the proposed provision.
- The absolute number of children with challenging behaviour already admitted under the Protocol in that school year into that year group will be calculated and recorded.

The Panel's decisions will be communicated to the schools securely and electronically by the School Placement and Admissions Team within two days of the Panel meeting being held. The placement will be confirmed to the family 5 school days after the named school has been notified. The named school must arrange for an admission interview and start date within 10 days of being notified.

5.4 Infant Class Limit

Under the School Admissions (Infant Class Size) Regulations 2012, infant classes must not contain more than 30 pupils with a single school teacher, but additional children can be admitted under limited circumstances. Such children will be "excepted pupils" for the time they are in an infant class or until the class numbers fall back below 30. Excepted pupils include children who were not living in the area at the time that the majority of pupils were admitted to the school and for whom there is no other available school within reasonable distance.

5.5 Process

Children will be placed over number in the nearest suitable school to their home address, subject to the following:

1. That the following over admission limits have/will not be breached.

PAN	Over- admission limit
30-59	2
60-89	4
90-119	6
120 & above	8

2. Siblings living at the same address to be offered places in the same school (including linked infant & junior schools where appropriate).

3. Where possible, pupils will be placed in a school of their parents' religious affiliation. However, this will not override the Protocol and it may be necessary to offer places in other schools or to offer a place to a pupil whose parents do not have the religious affiliation of the school concerned.

4. In placing pupils, where the above limits have not yet been reached, account will be taken of the number of pupils already admitted over number during the same school year.

5.6 Admission to School

The School Admissions Code 3.21 specifies, where it has been agreed that a child will be considered under the Fair Access Protocol, a school place must be allocated for that child within 20 school days. Once they have been allocated a school place via the Fair Access Protocol, arrangements should be made for the child to start at the school as soon as possible.

Admission to identified provision via Fair Access Panel is expected within 10 school days from the date of the letter from the School Placement and Admissions Manager to the school. The Panel support prompt admission based on the vulnerabilities of the applicant.

5.7 Escalation Routes where a school has declined to admit a pupil referred to it under the Fair Access Protocol

Given that the Fair Access Panel will have considered the pupil's application and the school's circumstances in accordance with the agreed Protocol, it is expected that the allocated school will admit the pupil without delay.

Following a placement, if the named school has genuine concerns about the child's admission – for example, if new information becomes available that was not disclosed at the point of admission, e.g. a connection with a pupil already on the school's roll, an already unbalanced cohort. The school must refer the case to the School Placement and Admissions Manager within 5 school days, clearly outlining why the child should not be admitted. The Local Authority will review the challenge with the Chair and Vice Chair along with the Director SEND & Education (for information only at this point).

If the school continues to refuse to admit the child following reconsideration by the Panel, the case will then be referred to the Director SEND & Education for consideration, including the option to issue or seek direction.

If the Panel accepts the school's reasons for not admitting the child, another school placement will be agreed. In these circumstances, the new school will be asked to admit the child within five days and be given the reasons why the original school was unable to place the child.

5.8 Interim Education Arrangements

As soon as it becomes clear that a child has been or is likely to remain without a school place or access to alternative provision for four weeks or more, provision of interim education (e.g. tuition) will be provided, where available. However, places will be prioritised for KS4 pupils in the first instance.

6. Monitoring Arrangements

Statistics will be maintained of the numbers and categories of children admitted under the Fair Access Protocol and the schools and alternative provision to which they have been admitted. These are shared with the minutes following each Fair Access Panel meeting.

The Fair Access Panel will monitor placements made under the Protocol to ensure that this is in accordance with the legal framework and the School Admissions Code 2021.

An annual report will be made to all head teachers providing statistical information on Fair Access admissions. This will be circulated with the minutes of the first September Fair Access Panel meeting.

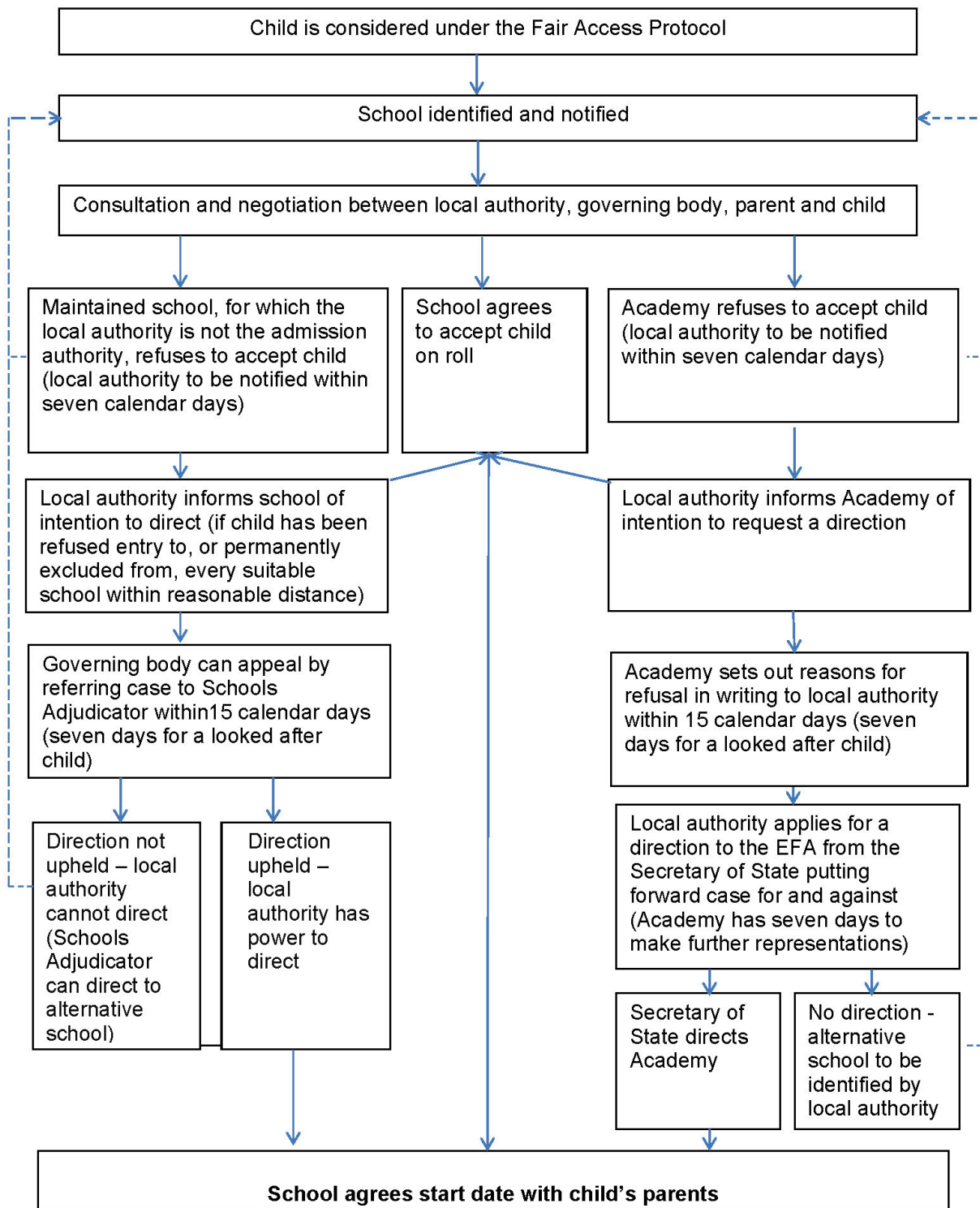
The effectiveness of the Fair Access Protocol and the number of children admitted under it will also be included as part of the annual local authority report on admissions arrangements.

The Fair Access Protocol has been subject to consultation with all primary and secondary head teachers. It will be reviewed on an annual basis in line with the annual admission arrangements.

In the event that the majority of schools can no longer support the principles and approach of the local Fair Access Protocol (for example, if they believe it is not operating fairly or effectively), they may request that it is reviewed. To invoke a review please provide details regarding your concerns to the School Placement and Admissions Team Manager and Director or Education and SEND. The existing Fair Access Protocol will remain binding on all schools in the area until a new one is adopted.

Appendix One

Directions flow chart (overview of process)



* Note: A community or voluntary controlled school cannot refuse to admit a pupil if requested by its own admissions authority.

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Latest consultation review: September 2023

Implementation date: November 2023

Version control: January 2024

Next review date: August 2024