

Kent County Council Fair Access Protocol

Purpose of Protocol

The School Admissions Code 2012 requires KCC and all other admission authorities to have a Fair Access Protocol.

A Protocol is required to ensure that children without a school place are found one as quickly as possible. This Protocol sets out the expectations on Kent County Council (KCC) and schools to work together to swiftly identify a school place for those children who have difficulty finding one.

Kent's Fair Access Protocol (FAP), developed in partnership with Heads and Principals sitting on district Fair Access Panels, ensures that outside the regular admissions round, unplaced children/young people, especially the most vulnerable, are offered a place at a suitable, where possible local school as quickly as possible. This will be done in a fair and transparent manner, agreed by the majority of schools in Kent. All schools (including Academies) need to participate since this Protocol is legally binding on all schools.

FAP is outside the arrangements of co-ordination and is usually triggered when a parent of an eligible child/young person has not secured a school place through in-year admission procedures.

Principles

Fair Access Panels will be held regularly to ensure that eligible children/young people secure an education placement as swiftly as possible and at least within the timescales detailed in the **Appendix 1**. Schools must respond immediately to Panel requests for admission so that the admission of the pupil is not delayed.

KCC's FAP will ensure that no one school or Academy - including those with available places - is asked to take a disproportionate number of children/young people who have been excluded from other schools, or who have challenging behaviour.

Schools **must not** insist on an appeal being heard before admitting a child/young person.

All Headteachers should abide by the decisions whether present in the meeting or not. All schools (including Academies) are bound by the provisions of the FAP, with no exceptions. Representatives from each school attending Fair Access Panels must have the autonomy to make a decision on behalf of their school.

The decision of the Fair Access Panel is final, cannot be challenged and is legally binding. Where a school is not present, Fair Access Panel decisions will be communicated by the Chair of the Panel. Parents have a legal right of appeal against the refusal of a school place at their preferred schools; even when placed through the Fair Access Protocol. In preparing for such appeals it is expected that schools would use the reasons for denying admission at the Fair Access Panel to defend the schools position at appeal.

Stage 1 – Assessing Eligibility

It is the expectation that most children/young people who are eligible will come to the attention of the Fair Access Admissions Team through the in-year admissions procedures. However, if at any time a school identifies a child/young person that could be categorised as meeting the criteria below, they should notify the Admissions Team to enable the necessary procedures to be initiated.

This provision will **not** apply to children/young people who:

- Are a Child in Care (CiC, formerly called a Looked After Child), either Kent or Other Local Authority;
- Have previously been a CiC, are adopted; or have special guardianship;
- Have a statement of special educational needs naming the school in question,

as children/young people in any/all of these categories **must** be admitted.

The Scope of the Fair Access Protocol

In line with the School Admissions Code 2012, the following categories of children/young people should be considered within the scope of this Protocol, who are of compulsory school age and have difficulty securing a school place:

- a) Young people who are in the from the Criminal Justice System and/or or Pupil Referral Units (including Alternative Provision) who need to be reintegrated into mainstream education;
- b) Children/young people who have been out of education for two months or more;
- c) Children/young people of Gypsies, Roma, Traveller communities, refugees and asylum seekers
- d) Children/young people who are homeless;
- e) Children/young people with unsupportive family backgrounds for whom a place has not been sought;
- f) Children/young people who are carers;
- g) Children/young people with special educational needs, disabilities or medical conditions (but without a statement). Schools **must not** refuse to admit a child/young person thought to be potentially disruptive, or likely to exhibit challenging behaviour, on the grounds that they are first to be assessed for special educational needs;
- h) Children/young people withdrawn from schools by their family following fixed term exclusions and/or to educate otherwise and unable to find a school place;
- i) Children/young people without a school place and with a history of serious attendance problems;
- j) Children/young people who have been permanently excluded from one school;
- k) Children/young people from families moving in to an area whose first language may not be English, and;

l) Children/young people of UK service personnel (UK Armed Forces) unable to secure a school place when the family are posted to a particular area;

m) The LA has a duty to ensure sufficient school places for all children in its area. Where this is not the case and whilst the LA is actively engaged in correcting the situation, a small number of children/young people who have been refused admission to all schools after moving to the area because the schools are up to their Published Admissions Number may have to be referred to the FAP.

Duty to Educate

A child reaches fair access status at the point of exclusion or where they have been unable to secure a school place within 30 days of contacting the LA. Following permanent exclusion from school, for the first five days the child/young person's education is the responsibility of their parent(s)/carer(s). The local authority's statutory duty is to ensure educational provision from Day 6. However, for non-excluded hard to place pupils, where panels fail to identify provision following the required 30 days, in these exceptional circumstances, Panels will be required to identify and provide some form of education in line with statutory requirements. Panels will ensure education is provided in the form of either a place in a pupil referral unit and/or through the provision of individual and/or group tuition until such time as a permanent place is secured.

Recommended Practice

Fair Access Panels may wish to give consideration to the best practice conducted across the county. Examples which have been brought to our attention include:

Dartford & Gravesham - Referrals are distributed to all schools prior to the meeting and cases are distributed to the panel at least 5 days before the meeting.

Thanet - Hold an ongoing data base with outcomes of successful managed moves and FAP cases reviewed and followed up at the next meeting to ensure placements have been actioned. Also in Thanet, primary aged pupil referrals are considered by the Primary Forum in line with the protocol.

Ashford – FAP and managed moves are discussed at the same meeting, and all officers and relevant education professionals are expected to remain throughout the meeting to offer guidance as appropriate. There is an expectation that a CAF will be completed for the child being placed.

Maidstone and Malling – Professionals from the Specialist Teaching Service and West Kent Health Needs Education Service are represented consistently at panels.

Canterbury & Swale– Commission an independent chairperson who administers the panels consistently, paid for collectively by the schools, to ensure the burden does not rest with any one school.

Tunbridge Wells - a cluster of local primary heads have come together to place primary aged pupils in line with the protocol for the area.

West Kent Learning Federation – discuss ongoing cases each meeting until the case is closed.

Stage 2 – Designating an Appropriate School

A decision must be made and an allocation secured for any child/young person considered to meet Fair Access status by KCC's Admissions Team whose case is presented by a KCC Officer to a Fair Access Panel. Schools should work together to ensure a fair distribution of 'hard to place' children/young people in each area. Responsibility is shared equally amongst admissions authorities to ensure a place is allocated. These children/young people should be given priority for admission over others on a waiting list or awaiting an appeal.

If a child/young person has previously been on a school roll in their locality, they will in the first instance return to their school of origin and be placed on roll, unless they left due to a permanent exclusion or the Panel deems it to not be in the best interests of the pupil and/or school.

Where possible, parent(s)/carer(s)' preferences will be considered but will not override the protocol if the preferred school is unable to admit the child/young person.

Where possible schools best placed to support the child/young person's educational and welfare needs will be considered first.

Schools cannot cite oversubscription as a reason for not admitting a child/young person unless placing would breach Infant Class Size legislation and they could not be classified as an excepted child. However, Panels will still have the authority to put schools into breach where no viable alternative is available.

Every effort must be made to limit the time or distance a child/young person must travel to receive education.

Where provision is required for pupils who cannot access a mainstream school, and where statutory assessment to meet the learner's behavioural needs is necessary, a PRU may provide the appropriate environment to allow the assessment to take place. In this circumstance the pupil should have dual registration within a mainstream school. The panel must therefore identify a named mainstream school, as part of the placement to the PRU.

It is anticipated that following the current review of PRU and Alternative Curriculum Provision, some localities may have reduced or no PRU provision. Where this is the case, schools will have received funding for the purpose of providing, arranging and commissioning alternative curriculum for young people for whom mainstream school is not presently a possibility. It is the responsibility of schools locally engaged in the Fair Access Panels to ensure that where provision of this type is identified through the FAP, they have assured its quality and fitness for purpose.

To ensure that children/young people are provided with the most appropriate place to meet their needs, either their educational needs or broader support needs, information outlining their individual requirements will be provided by the school, Academy or organisation recommending a move to a new school or academy, alternative provision or pupil referral unit. There is an expectation that a CAF will be triggered as part of the decision to place a child/young person in alternative provision or pupil referral unit unless an existing assessment (other than SEN) is in place.

Stage 3 – Pupil Reintegration Procedure

Decisions on placement will be notified to the KCC Admissions Team for formal notification to the parent/carer. Schools must contact the parent to arrange admission.

Once the Fair Access Panel has identified a school, an offer letter will be sent to the parent by KCC Admissions Team. Schools must notify the KCC Admissions Team of the admissions date in each case confirming that the child is on roll.

The school must complete a Children Missing Education (CME) referral if a parent refuses the place, or the child/young person does not start school within 10 school days of the agreed start date. If a School Attendance Order is required the school identified by the Fair Access Panel will remain the designated school.

Subsequent Fair Access Panel meetings will review prior placements to ensure that these children/young people continue to receive full time education.

Dispute Resolution

In the event a Fair Access Panel decision has been taken and the named school refuse access, the school will be directed to admit and the case referred to the Schools Adjudicator.

Review of the Fair Access Protocol

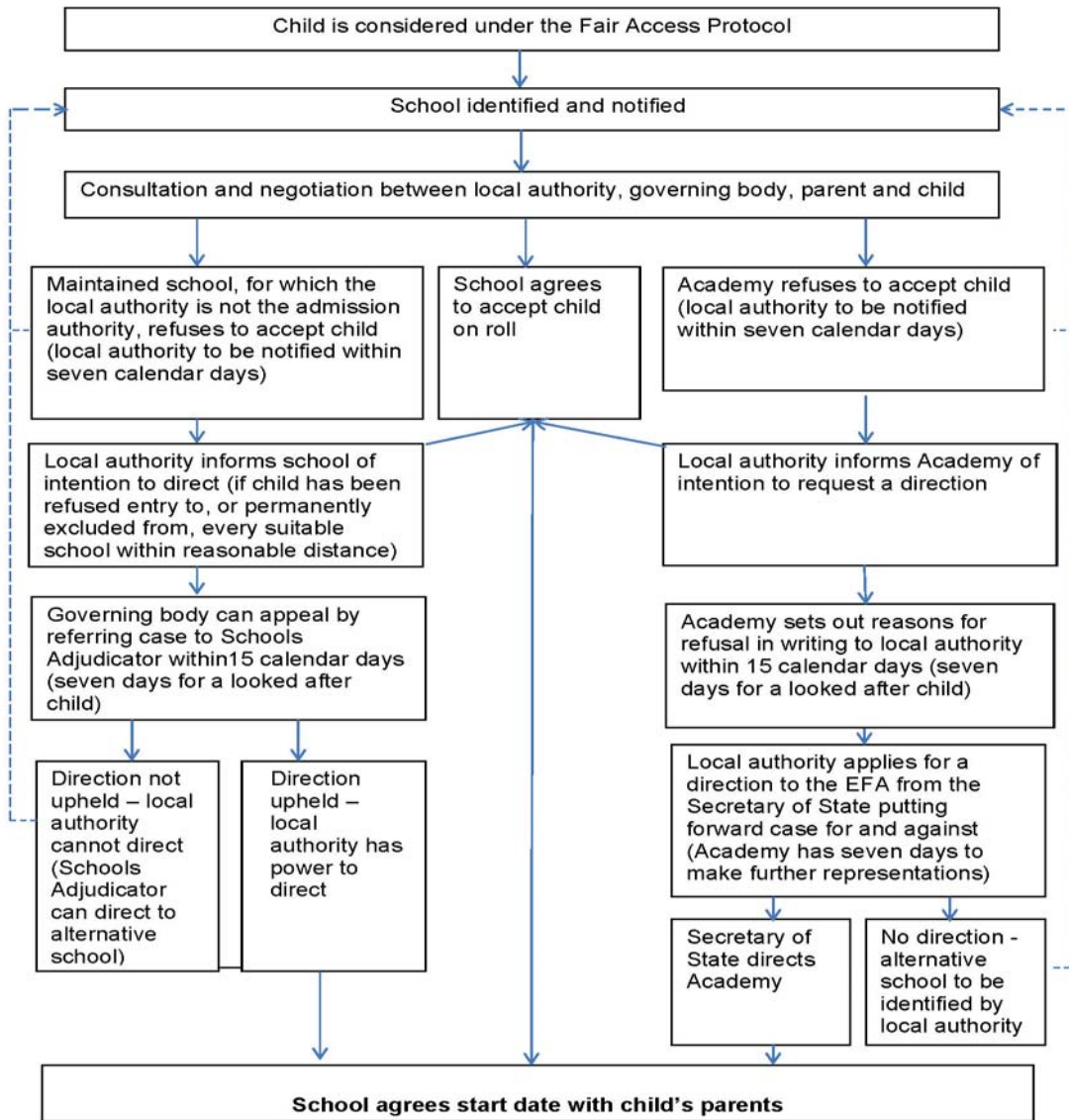
The Fair Access Protocol will be reviewed annually by the Kent Association of Headteachers, and if necessary, revised, following consultation.

Managed Moves

Managed moves do not form part of the FAP however, in some circumstances it may be appropriate for a pupil to transfer from one school to another for a fixed period whilst remaining on the roll of the first school as an opportunity for a fresh start. Such arrangements require the full knowledge and co-operation of all the parties involved, including parents, pupil, both schools and the LA and should proceed in accordance with locally agreed practices. If the managed move is successful the child is transferred to the roll of the new school at the end of the fixed period.

How managed moves operate will depend on local arrangements and will be determined by collaborations of Headteachers in their localities.

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.