



**South Tyneside Council**

# **Fair Access Protocol**

**Agreed: 01/12/21 – operational 01/01/22**

**Next Review Date: Spring 2023**

## Background

1. The School Admissions Code came into force on 1 September 2021 and requires each Local Authority to have a Fair Access Protocol (FAP) which has been agreed with the majority of schools in the area.
2. “The Local Authority **must** have a FAP 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” (School Admissions Code September 2021, paragraph 3.14).
3. The FAP is consulted and agreed upon by all schools in the borough. All admission authorities **must** participate in the Protocol which includes making a representative available who is authorised to participate in discussions and to make decisions on placing pupils via the Protocol. This includes admitting children even when a school is full.
4. Children with statements of special educational need or Education Health and Care Plan are **not** covered by this protocol as their needs are considered through a separate procedure.
5. The FAP is **not** applicable to admissions made through the “normal admissions round” (Reception, Year 3 and Year 7) for primary, junior or secondary schools.
6. The majority of in-year transfer applications will be processed through the usual admissions processes. Where **it can be demonstrated** that reasonable measures have been taken to secure a school place through the usual in-year admissions process and this has not been successful, or where a school place has not been sought due to exceptional circumstances, a child may be eligible for referral to the FAP. Referral to the FAP should be seen as the last resort to secure a school place for a child.
7. The purpose of a FAP is to ensure that vulnerable children, and those who are having difficulty in securing a school place in-year, are allocated a school place as quickly as possible, minimising the time the child is out of school.
8. There is no duty for local authorities or admissions authorities to comply with parental preference when allocating places through the FAP.

## Purpose of the FAP

9. The Protocol provides a fair and transparent system to ensure that all schools share the collective responsibility of helping the most vulnerable, by admitting their fair share of children being placed via the FAP. This includes supporting those children who have been permanently excluded from other schools and those who display challenging behaviour.
10. Schools and academies work collaboratively to make decisions under the FAP with links to the Behaviour and Attendance Partnership (BAP).

11. There is no duty to comply with parental preference when allocating places through the FAP, but parents' wishes will be taken into account.
12. When seeking to place a child through the FAP, no school (including those with places available) should be asked to take a disproportionate number of children who have been permanently excluded from other schools, who display challenging behaviour, or who are otherwise being placed via the FAP.
13. Admission authorities **must** admit children when asked to do so in accordance with the FAP. Where an admission authority fails to comply with the FAP, they may be directed to do so.

### **Key Principles of the FAP**

14. The Co-ordinated Admissions Scheme and associated procedures are the main way in which education is secured quickly for all children and schools can only refuse to admit a child under the circumstances outlined in paragraph 23.
15. It is recognised that children are presented with a barrier when they move from one secondary school to another, particularly during Key Stage 4. A managed move may be considered in cases where a fresh start is the only way forward and all other measures have been tried, such as attendance at a Pupil Referral Unit or part time attendance with vocational elements.
16. A managed move is an agreement between two schools and the parent(s) / carer(s), supported by the local authority. It is underpinned by an honest dialogue between the two schools and parent(s) / carer(s) about the nature of the problems that are being encountered with the child and is supported by all the appropriate information, correspondence and child data. The managed moves procedure is attached at appendix 2.
17. There is no duty for the FAP to comply with parental preference, however aim is to strike a balance between finding a school quickly and the needs of the child, parents and school. Therefore, a range of factors is considered when deciding on the placement of a child. Safeguarding issues will be paramount throughout the consideration of an appropriate placement.
18. Where there is professional evidence that mainstream education may not be suitable at the present time, the Children, Adults and Families Directorate will consult with parents and other agencies to seek to provide appropriate alternative education provision. This may involve pupils benefiting from an early start in a further education college or other setting.
19. A child referred to Alternative Education but who has not been permanently excluded remains the responsibility of the school once the time at alternative education is complete. He/she would not routinely come to the FAP, except for requests for help with a managed move placement.

20. Schools cannot cite oversubscription as a reason for not admitting a child under the FAP.
21. Schools will continue to admit pupils whose parents apply for an available place, under the usual in-year admission arrangements.
22. Children considered via the FAP will be given priority for admission over others on a waiting list or awaiting an appeal. Managed Moves will not be given priority for admission, unless they meet the FAP criteria.
23. Where an admission authority receives an in-year application for a year group and it 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 to the FAP. An admission authority must demonstrate that there is 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.
24. 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 (further information is included in the Department for Education, Fair Access Protocols guidance document, July 2021. Exclusions to this rule are detailed in paragraph 3.8 of the School Admissions Code.

### **Criteria of the FAP**

25. "Fair Access Protocols may only be used to place the following groups of vulnerable and/or hard to place children, 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 (paragraph 3.17 of the School Admissions Code):
  - 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 FAP;
  - b) children living in a refuge or in other Relevant Accommodation at the point of being referred to the FAP;
  - 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 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;
- 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.

26. Additional non-statutory criteria (evidence will be required):

- a) children who are known to other agencies who may present a serious safeguarding concern
- b) children with a history of serious / poor attendance
- c) children who have not been allocated a school place within a reasonable distance following a move into the area, due to the shortage of school places
- d) children who have been withdrawn from school following fixed term exclusion and a school place is not available within a reasonable distance
- e) children who have been subjected to severe bullying and harassment and require an urgent transfer
- f) Applications received for Year 11 in the spring and summer terms.

### **Appeals Process**

27. The appeals process is independent from the FAP. Where a child has been referred to the FAP, their parents retain the right to make further in-year applications and appeal against the refusal of a school place as normal.
28. If a child is refused a school place and is subsequently referred to the FAP, the school may later be required to admit that child if an appeal is upheld. This would also be the case when an alternative school place is offered to the child via the FAP. In all circumstances, the decision of an appeal panel is binding and **must** be complied with. The fact that an appeal has been lodged for a child is not a reason to delay the FAP process.

### **Funding**

29. A school identified by the panel as the appropriate recipient of a pupil will promptly receive revenue funding equivalent to the proportionate number of terms placed for the child, as identified on the "Consistent Financial Reporting" website.

## **Monitoring and Review**

30. The operation of the FAP will be reviewed by the BAP and primary cluster chairs at the end of every academic year. The School Admissions Team will prepare and submit the following information for review purposes:

- Exclusions (permanent and fixed)
- Casual in-year admissions
- Admissions on appeals
- Managed Moves
- Fair Access admissions
  - Numbers
  - Success rates in terms of sustainable placements.

## **Appendix 1 – The Panel, Information and Decision Making**

### **The Panel - Secondary**

- a) The panel is constituted as follows:
- Head of Learning and Early Help (Chair)
  - Service Manager Access & Inclusion
  - Service Manager Early Help
  - Head Teacher – Beacon Centre
  - 3 Head Teacher representatives from secondary schools (with delegated powers) selected on a rota basis
  - School Admissions Manager (to advise on process)
- b) Other representatives who may be invited to support decision making
- Head Teacher representatives from the preference schools of the cases to be considered
  - Asylum & Refugee Support Officer
  - Matrix Manager
  - Virtual Head Teacher
- c) The panel will meet on a monthly basis programmed as a pre-meeting to the Behaviour and Attendance Partnership (BAP).
- d) Where no consensus can be reached on specific referrals then the case will be referred to the Director of Children’s Services for a decision, who will notify the allocated school within 7 days of the panel meeting.

### **The Panel - Primary**

- e) The panel is constituted as follows:
- Head of Learning and Early Help (Chair)
  - Head Teacher – Beacon Centre
  - 3 Head Teachers selected from the primary cluster chairs on a rota basis
  - School Admissions Manager (to advise on process)
- f) Other representatives who may be invited to support decision making
- Service Manager Access & Inclusion
  - Service Manager Early Help
  - Head Teacher representatives from the preference schools of the cases to be considered
  - Asylum & Refugee Support Officer
  - Matrix Manager
  - Virtual Head Teacher
- g) The panel will meet as and when required. Formal reports to be presented to the termly cluster chairs meeting.

- h) Where no consensus can be reached on specific referrals then the case will be referred to the Director of Children's Services for a decision, who will notify the allocated school within 7 days of the panel meeting.

### Information

- i) The referring body (School or Alternative Education and Behavioural Support Service) must provide, as a minimum, the following information to the BAP's coordinator **at least 10 days** before the meeting:
- Information passport
  - Where relevant, information on pastoral care provided, including managed moves
  - Application Form from parent
  - Risk assessments, particularly following serious incidents e.g. possession of weapons, drugs or violent behaviour
  - Evidence that the child is ready for mainstream school.
- j) The School Admissions Team will provide, as a minimum, the following data for the previous academic year and the current academic year as part of the paperwork for the panel:
- In-year admissions (including those from other authorities)
  - Admissions on appeals
  - Fair Access admissions
  - Exclusions
  - Managed Moves (successful and unsuccessful).

### Procedure / Decision Making

- k) The panel will consider the following questions in order to determine a decision:

- i. Has sufficient information about the child been submitted?

The Panel must receive all the information as outlined in paragraphs i) and j) of the appendix at least five working days before the meeting (the Chair of the Panel may decide to accept a case received within a shorter period).

- ii. Does the child fall within the scope of the protocol?

The Panel must decide whether or not the child falls within the scope of the protocol as outlined in paragraphs 25 and 26 of the protocol.

- iii. Is the child ready for a mainstream school?

Children should not be reintegrated into mainstream school unless they are ready and their behavioural problems have been assessed, suitably addressed and they are ready to take the step back into a mainstream



setting (multi agency through Early Help). Ensuring success of a move is paramount.

iv. Which school should the child be placed in?

This decision must be focused on the needs of the child. If appropriate, the child should return to the original school. If this is not appropriate (e.g. if vulnerability increased by staying at current school or relationship with current school irretrievable) the following criteria will be considered when placing the child:

- Previous school history e.g. managed moves broken down
- Distance from the child's home
- Parental preference
- Safeguarding issues
- Schools' position on rota

l) Infant classes (Reception, Year 1 and Year 2) must not contain more than 30 pupils with one teacher. Children may be admitted under limited exceptional circumstances. These children will remain an 'excepted pupil' for the time they are in an infant class or until the class numbers fall back to the current infant class size limit. The excepted children are:

- children admitted outside the normal admissions round with statements of special educational needs or Education, Health and Care Plan specifying a school;
- looked after children and previously looked after children admitted outside the normal admissions round;
- children admitted after initial allocation of places, because of a procedural error made by the admission authority or local authority in the original application process;
- children admitted after an independent appeals panel upholds an appeal;
- children who move into the area outside the normal admissions round for whom there is no other available school within reasonable distance;
- children of UK service personnel admitted outside the normal admissions round;
- children whose twin or sibling from a multiple birth is admitted otherwise than as an excepted pupil;
- children with special educational needs who are normally taught in a special educational needs' unit attached to the school, or registered at a special school, who attend some infant classes within the mainstream school.

Consideration will be given to the legal limit of class sizes in Key Stage 1. However, it may be necessary to admit pupils as exceptions through the FAP.

m) Children allocated a place under the FAP must be admitted to the identified school within 15 days of the decision. The School Admissions Team will

report to the next meeting of the BAP or primary cluster chairs on the progress of all those children previously placed through the protocol, including adherence to the 15-day admittance rule.

- n) If a school refuses to comply with the FAP decision, they must state their reasons in writing to the Chair of the panel within 5 school days from the date of the panel decision. The Chair will then determine a written view after consulting with the school and the Local Authority officers. Additionally, the Local Authority or Secretary of State can enforce the decision of the panel by using any powers of direction, if required.
- o) Whilst this FAP covers only the schools in South Tyneside, it may be necessary to contact neighbouring authorities to help secure a place in that area under their FAP.

## Appendix 2 – Managed Move Protocol

### Introduction

- a) Research has concluded the following key recommendations.
- That a child should:
- Have an active role in the process
  - Have a sense of belonging in their new environment
  - Receive meaningful support
  - Have commitment and belief.
- b) A managed move should only be considered when it is clear that a fresh start is the only way forward and all other measures have been tried e.g. attendance in alternative education provision or part time attendance with vocational elements. All school interventions relevant to the particular child should have been exhausted.
- c) A managed move **is not** appropriate where:
- A parent is seeking a straight-forward transfer to another school (circumventing the usual in-year transfer procedures)
  - The child is not on a school roll
  - The child is unable to return to the home school if the placement is unsuccessful
  - The child is LAC (unless with the agreement of the Virtual Head Teacher)
  - The child has an Education, Health and Care Plan
  - A move would not benefit the child.

### Procedure

- d) The managed move protocol is completely reliant on the two schools, supported by the local authority, honestly brokering the best outcome for the child. The process relies upon accurate and complete information about the transferring child being provided by the original school, and a format for that information is included in this protocol.
- e) Under the managed move protocol, the 'receiving' school is requested, following prescribed procedures, to admit the child, initially on a trial basis of 4 to 6 weeks. The child will remain on the original school's roll during this period.
- f) The protocol will be triggered by the parent/carer and school forming a judgement that a move to another school for a 'fresh start' would potentially benefit the child.
- g) Before entering into any discussions with parents/carers or the child about the alternative school, the Head Teacher of the original school (School A) must discuss the case with the Head Teacher of the proposed receiving school

(School B) in order to gain support, confirm its appropriateness, and agree to a trial placement.

- h) School A will convene a meeting of all relevant parties in order to examine the case. This meeting should include the parent(s) or carer(s) of the child and will seek to address collectively and formally the issues behind the proposed move. The meeting will establish the extent to which the school has responded to the various problems that have led to the proposed move. If there is commitment to the move by all parties then the parent/carer will sign an agreement and a managed move pro forma will be completed.
- i) School A will contact the nominated school (School B) to present the endorsed managed move application, including the information passport and any other relevant student documentation requested by School B e.g. behaviour record, school report, medical information etc.
- j) School B will convene a managed move trial admission meeting of all relevant parties to include for Schools A and B and an admission date will be agreed. The School Admissions Team must be informed at this point of the proposed move using the relevant documentation.
- k) A review convened by School B at 6 – 10 weeks after admission comprising all relevant parties will be convened. If the managed move is deemed to be successful, then the child will be formally enrolled at School B. The School Admissions Team must be informed using the relevant documentation.
- l) The managed move may be deemed as failed by the hosting school (or the original school following discussion) where a serious incident occurs that is of the severity that would have resulted in a formal fixed term exclusion.
- m) A final review convened by School B at the end of the first full term after admission will be convened. The success of the placement will be reviewed based on an analysis of the following: attendance, behavioural incidents, progress, pupil perceptions and parental perceptions.

### **Registration and roll arrangements**

- n) Admissions Register – School A should change the enrolment status from “C” (current) to “M” (main dual registered). School B should record the enrolment status as “S” (subsidiary – dual registered).
- o) Attendance Register – School A should record the child with a “D” code (dual registration). School B should record the attendances and absences using the appropriate code.
- p) It is the responsibility of School A to keep the School Admissions Team informed of progress on the managed move.

## Other Factors

- q) Each school should identify a named contact person for the local authority in relation to managed moves.
- r) At the initial managed move meeting a Pastoral Support Plan should be set up by School A in consultation with School B to support the child's transfer.
- s) Only the Head Teacher of School A can exclude the child.
- t) The child's transition into the new school must be on a full time basis, and will similarly need to be supported with effective induction processes that are something more than normally provided to new children. The key to success is likely to be the child's and parent/carer feeling an ownership of the transfer, prepared for it, and supported in it by School A, School B and the Services for Young People (SYP).
- u) School A should support families eligible for free school meals to access them in School B immediately.
- v) There is no additional funding beyond the AWPU available from the Local Authority for schools.
- w) Oversubscription in School B or other special circumstances e.g. Ofsted judgements will not automatically prevent School B from entering into a managed move agreement.
- x) Should a managed move transfer prove unsuccessful, School Admissions Team must be informed; the pupil will be returned to school A. A failed managed move **does not** preclude a parent from transferring the pupil to that school at a later date.
- y) A school is not expected to participate in more than 3 managed moves at any one time.
- z) Careful consideration should be given to managed moves in Year 10 and Year 11.

## Managed Move Pro-forma

### Part 1 - Initial Assessment

Name of Pupil: .....

Date of Birth: .....

Year Group: .....

Male/Female: .....

SEN / EHCP Stage: .....

Name of registered school: .....

Managed Move to: .....

Reason for Move:  
 .....  
 .....  
 .....

Date move to commence: .....

**Information passport and other relevant student documentation to be attached (\*E indicates essential).**

External measures tried:	Internal measures tried:
<input type="checkbox"/> Full time attendance at Pupil Referral Unit up to maximum of 14 weeks	<input type="checkbox"/> Parental interviews/discussions (E)
<input type="checkbox"/> Part-time attendance at Pupil Referral Unit with vocational elements	<input type="checkbox"/> Report system eg book (E)
<input type="checkbox"/> Referrals of external agencies	<input type="checkbox"/> Schools intervention and support given eg inclusion unit (E)
<input type="checkbox"/> SEN / EHCP provision of support and involvement of external agencies (if applicable)	<input type="checkbox"/> Referrals of external agencies eg Ed Psyc (E)
<input type="checkbox"/> Early Help Plan	<input type="checkbox"/> Formal exclusion
<input type="checkbox"/> Alternative curriculum (engagement programme)	<input type="checkbox"/> SEN / EHCP referral (E)
	<input type="checkbox"/> Pastoral Support Programme (if appropriate / equivalent) (E)

Signed on behalf of referring school:

Signed on behalf of receiving school:

.....

.....

Date: .....

Date: .....

**Part 2 - Review**

Review date (set by week 6): .....  
(Trial Period)

Has the move been successful:                  Yes                          No

**Please give reasons -**

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Final Review date (Between weeks 6 – 10):  
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Has the move been successful:                  Yes                          No

**Please give reasons -**

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Signed on behalf of referring school:

Signed on behalf of receiving school:

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Date: .....

Date: .....

## Manage Move – Parental Agreement

In signing this agreement, I recognise that there are issues with my child at their current school, which are preventing him/her achieving their potential and agree to my child taking part in a Manage Move for a period of 4-10 weeks.

I understand that for the move to be successful my child will have the following targets: -

- Good / improved attendance
- Good / improved punctuality
- Commitment to schoolwork
- High standards of behaviour

During the manage move period my child will be dual registered with their current school and if the move proves to be successful my child's name will be removed from their current school roll and placed on the roll of the school named in the manage move. However, I understand that if the move is unsuccessful he/she may be considered for referral under the In Year Fair Access Protocol.

Name of pupil: .....

Date of Birth: .....

Registered school: .....

Manage Move to: .....

Pupil signed: .....

Parent/Carer signed: .....

Date: .....

**Forms to be sent to: The School Admissions Team –  
school.admissions@southtyneside.gov.uk**