

Access & Exclusion Team

Fair Access Protocol

September 2013
(Revised)

Fair Access Protocol

1. Background

1.1. The School Admissions Code 2007 placed a duty on each Local Authority to create locally and operate a Fair Access Protocol, replacing the Hard to Place Pupils Protocol which had been required since September 2005. In West Sussex the Fair Access Protocol has previously applied only to schools with secondary aged pupils. The Department for Education's School Admissions Code 2012 ('the Code') restates the principles and scope of the Protocol. All admission authorities must participate in the Fair Access Protocol in order to ensure that outside the normal admissions round unplaced children, especially the most vulnerable, and those seeking a change of school that are of compulsory school age are found and allocated a suitable school place quickly to reduce the amount of time a child is out of school.

2. Requirements of the Fair Access Protocol:

The Code requires that:

2.1. Each Local Authority must have a Fair Access Protocol, agreed with the majority of schools ¹ in its area (including Academies) to ensure that outside the normal admissions round unplaced children, especially the most vulnerable, are offered a place at a suitable school as quickly as possible. In agreeing a Protocol, 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. The Protocol must be applied fairly, transparently and consistently, and include how the Local Authority will use provision to ensure that the needs of pupils who are not ready for mainstream schooling are met.

2.2. All admission authorities must participate in the Fair Access Protocol in order to ensure that unplaced children are allocated a school place quickly. There is no duty for Local Authorities or admission authorities to comply with parental preference when allocating places through the Fair Access Protocol but it is expected the wishes of parents are taken into account.

2.3. A Fair Access Protocol must not require a school automatically to take another child with challenging behaviour in the place of a child excluded from the school.

2.4. This provision will not apply to a child who is Looked After, a child who was previously Looked After, or a child with a Statement of Special Educational Needs naming the school in question, as these children must be admitted to the school best suited to meet their needs.

¹ All schools when mentioned include Academies and free schools and all are included throughout the document

2.5. As part of its annual report, the Local Authority must report to the Schools Adjudicator ('the Adjudicator') on the effectiveness of the Fair Access Protocol including how many children were placed under it. The Local Authority's annual report must be produced and sent to the Adjudicator by 30th June each year following the admissions round. It must also be published locally.

2.6. West Sussex County Council will administer the Fair Access Protocol through a Pupil Placement Panel ('the Placement Panel') for secondary aged students and through the Exclusion Manager for primary aged pupils.

3. Main Principles of the West Sussex Fair Access Protocol

3.1. The majority of children applying outside the normal admission round will be admitted to a school through in year admission procedures, rather than through the Fair Access Protocol.

3.2. All admission authorities and schools will need to act collaboratively in accordance with the arrangements.

3.3. Although no longer a statutory body it is intended that in West Sussex the Admission Forum, as an advisory body, will continue to monitor the effectiveness of the Fair Access Protocol. The Placement Panel/Exclusion Manager will monitor outcomes for its area and the Admission Forum will monitor overall outcomes for children across the County.

3.4. In deciding a placement every effort will be made to ensure that transport arrangements, which may be the responsibility of parents, are reasonable and cost effective.

3.5. Wherever possible, the Placement Panel/Exclusion Manager will take account of a pupil's religious affiliation and pupils should be matched to a suitable school/Academy but this should not override the Fair Access Protocol if the school is unable to take the pupil, or if the pupil identified for the school does not have that affiliation.

3.6. The Placement Panel will consider parental preference, but not be constrained by it. Parents retain the right of appeal if refused their preferred school.

3.7. The Pupil Admissions Team and Special Educational Needs Team will provide information where available relating to Published Admission Numbers (PAN), Numbers on Roll (NoR), and patterns of admissions within the area so that these factors can inform the Placement Panel decisions about placements.

3.8. Once schools have reached their PAN, they are able to admit pupils specifically identified through the Protocol, in accordance with the decision of the Placement Panel which needs to take account of subject guidance on pupil class sizes (for primary aged pupils See note 6.2)

3.9. In making decisions about placements, the Placement Panels/Exclusion Manager will give due consideration of each school's profile of current pupil needs and other relevant contextual issues within the Area Partnership.

3.10. Vulnerable and/or challenging pupils will be given priority for admission over any other young people on a waiting list or awaiting an appeal.

3.11. Where a governing body does not wish to admit a vulnerable child/child with challenging behaviour outside the normal admissions round, even though places are available, it must refer the case to the Local Authority for action under the Fair Access Protocol. Although this is no longer specified in the Code this will normally only be appropriate where:

3.11.1 a school has a particularly high proportion of children with challenging behaviour or previously excluded children in a particular year group;

3.11.2 a school is in Special Measures;

3.11.3 a school has recently come out of Special Measures; or

3.11.4 a school is otherwise assessed by the Local Authority as needing support.

3.12. Decisions must take account of any concerns about the admission, for example a previous serious breakdown in the relationship between the school and the family, or a strong view about the religious ethos of a school.

3.13. Schools should not refuse to admit a pupil who has been denied a place at that school at appeal, if the Placement Panel/Exclusion Manager identifies that school as suitable to admit the child.

3.14. The West Sussex Alternative Provision College (WSAPC) is commissioned to provide education to pupils resident in the local area, for whom the Local Authority is responsible for arranging suitable full-time education, whether or not they are on the roll of a school, and whatever type of school they attend. These are pupils who have been excluded from two or more schools (in line with paragraph 3.8 of the Code), pupils who are permanently excluded and those pupils who, because of illness or other reasons, would not receive suitable education without such provision.

4. Definition of Potentially Vulnerable and Challenging Pupils

4.1. The Local Authority will assess information provided to it about pupils who require a school place, to identify those children who should be

considered as eligible children under the Fair Access Protocol. Schools who are their own admission authority will need to alert the Exclusion Manager of students that they feel need to be considered under the fair Access Protocol. An eligible child will be one who falls within any one of the following criteria which includes categories that must be incorporated as set out in the Code (denoted by *). Identification under one of the following categories will not automatically qualify a pupil's application to be dealt with through Placement Panel; the decision to refer cases to Placement Panels will be made by the Exclusion Manager:

- 4.1.1. Children attending Pupil Referral Units (PRUs) and other Alternative Provision (AP) who need to be reintegrated into mainstream education*;
- 4.1.2. Children returning from the criminal justice system who need to be reintegrated into mainstream education*;
- 4.1.3. Children who have been out of education for two months or more*;
- 4.1.4. Children who are electively home educated where home education is judged to have failed in the view of the Local Authority;
- 4.1.5. Children whose parents have been unable to find them a place after moving to the area because of a shortage of places;
- 4.1.6. Children withdrawn from schools by their family following fixed term exclusions and have not secured another place (attendance less than 80%);
- 4.1.7. Children of refugees and asylum seekers*;
- 4.1.8. Children who are homeless*;
- 4.1.9. Children with unsupportive family backgrounds where a place has not been sought*;
- 4.1.10. Children known to the police or other agencies;
- 4.1.11. Children without a school place and with a history of serious attendance problems;
- 4.1.12. Children of Gypsies, Roma and Travellers*;
- 4.1.13. Children who are carers*;
- 4.1.14. Children with special educational needs, disabilities or medical conditions (but without a Statement of Special Educational Needs)*;
- 4.1.15. Children of UK Service Personnel and other Crown Servants;
- 4.1.16. Pupils seeking a place in Year 11.

4.2. Further guidance on these categories is provided in Appendix 1 . The Exclusion Manager will determine which pupils fulfil the above criteria on the basis of information about an individual child's circumstances based on information provided by parents and the previous school.

4.3. Once identified, a pupil will be referred to the next available meeting of the Placement Panel or directly to the Exclusions Manager.

4.4. If a pupil has been admitted to a school under the standard in-year admission process, and it subsequently transpires that the pupil should have been identified as vulnerable and/or challenging, the receiving school should present the details of the case to their Placement Panel/Exclusion Manager, who should discuss whether the pupil should be identified retrospectively as being admitted under the Protocol.

5. Role of the Pupil Placement Panels (secondary aged pupils only)

5.1. For the purpose of this Protocol, children will be referred to the Placement Panel in which their first preference school is located. Parents will be informed of the area partnership divisions within the county and will be asked to provide reasons for their preferences to assist Panels in reaching a decision. If a placement cannot be agreed between Panels when a parent states preferences for schools in more than one area partnership then a school in the area where a pupil lives will be identified.

5.2. Pupil Placement Panels will operate in four Area Partnerships (Areas A, B, C1 and C2). The role of the Placement Panel is to:

5.2.1. agree and review local arrangements for the work of the Placement Panel within the County framework set out in this Protocol;

5.2.2. meet on a regular basis during the school year to ensure admission of pupils is not delayed (as a minimum each Placement Panel must meet each calendar month, excluding August);

5.2.3. secure the best possible placement for each young person;

5.2.4. achieve equitable outcomes for individual schools on the basis that the allocation of pupils is shared amongst all schools within the Area Partnership, and no one school should be required to take a disproportionate number of vulnerable and/or challenging children. It should be noted that sixth form numbers should not be taken into account as these year groups are not part of the Fair Access Protocol;

5.2.5. consider patterns and trends of admissions within the local area;

5.2.6. collaborate with other Placement Panels so that unplaced children, especially the most vulnerable, are offered a place at a school that best suits the needs of the pupil in the home Local Authority as

quickly as possible. This includes admitting children above the PAN to schools that are already full.

5.3. Each Area Partnership will agree membership of its Placement Panel. It is recommended that:

5.3.1. membership of the Placement Panel should consist of a representative of all school categories/types to whom the Protocol applies. The school representative must be empowered to make a binding commitment on behalf of their school;

5.3.2. the Exclusion Manager and a representative of WSAPC for the relevant Area will attend the Placement Panel. Other relevant Local Authority professionals will attend as required.

5.3.3. the Placement Panel should appoint a Chair. There should be an annual review of the appointment at the end of each Spring Term so that, if required, a new Chair can be appointed for the new academic year. A term's notice of resignation is required to ensure a smooth transition and continuity of liaison with the Local Authority. Should no Chair be appointed a Local Authority representative would assume responsibility for the role. In the absence of the Chair, a volunteer from the meeting will be requested. Should none be forthcoming a Local Authority representative will Chair the meeting.

5.4. The role of the Chair is to:

5.4.1. liaise with the Exclusion Manager and Local Authority representatives between meetings as necessary;

5.4.2. lead the meeting; and

5.4.3 ensure that all cases are discussed and decisions about placements are made for each case.

5.4.4. In the event that no decision can be reached in the Placement Panel meeting the Chair and Local Authority representative will make a decision taking into account specific factors, such as geography, PAN and equitable distribution.

5.5. The Placement Panel will require commitment from members to attend regularly but it is acknowledged that unforeseen circumstances and emergency situations may mean attendance cannot always be guaranteed. In such cases, schools may wish to nominate another colleague to attend the meeting.

5.6. The Placement Panel can identify a school place for a child even in the absence of the relevant school's representative.

5.7. The Placement Panel should agree a meeting schedule for the forthcoming year. As a minimum each Placement Panel must meet each

calendar month (excluding August) but may meet more frequently to accommodate high demand.

5.8. An agenda for each meeting will be drawn up in advance by the Exclusion Manager and circulated to Placement Panel members prior to each meeting. Previous decisions will be circulated and discussed at meetings to ensure updates are provided about previous decisions and funding decisions are made and reviewed.

5.9. As much information as possible in each individual case will be gathered to allow a decision to be reached about which is the most appropriate school to offer a place. Should specific information emerge which affects the appropriateness of the Placement Panel's original decision it is appropriate to bring that case back to the Placement Panel for further discussion about the possible identification of another school place being made available.

5.10. On occasion, cases may be brought to the Placement Panel's attention at the meeting which were not on the original agenda. A written outline of information on the pupil will be supplied at the meeting to allow an appropriate level of discussion. When there is insufficient information about a pupil their details will be included in a provisional list and if no place is identified at the meeting a school place will be addressed outside the meeting.

5.11. The agenda will be accompanied by a list of Children Missing from Education. The Placement Panels may also choose to be notified of managed moves within the Area.

5.12. The identification of a relevant pupil under the Fair Access Protocol will not mean he/she is automatically placed on the agenda, if placement can be arranged quickly. The decision rests with the Exclusion Manager.

5.13. All schools, including Academies are expected to respond to requests by Local Authorities to admit a child under Fair Access protocols within 10 school days. As per paragraph 5.9 above, in exceptional circumstances a decision of the Placement Panel may need to be reviewed.

5.14. All Placement Panel decisions will be recorded and held by the Exclusion Manager together with a small commentary as appropriate.

5.15. The Exclusion Manager will ensure that cases are placed on the agenda of the next Placement Panel meeting and parents will be advised of this date.

5.16. It is expected that schools will confirm a child is on roll at the next Placement Panel meeting after a decision has been agreed. However, Section 433 Education Act 1996 permits deferment of admission of a child, currently on roll of an existing school, to the start of a school term. In cases involving school transfers that do not require a house move, or where there is no need for an immediate move, admission authorities can

arrange for a child to start at school at the beginning of term to minimise disruption to their own, and other children's education. The decision whether this would be appropriate rests with the admission authority and not the school, if these differ.

5.17. Other than in exceptional circumstances:

Parents will be notified by the Local Authority of the Placement Panel's decision within two working days. On receipt of contact details, the school should contact the parents prior to this deadline and should be prepared to contact parents in any case where the parent is slow to make contact.

The receiving school will make contact with the pupil's parent(s)/carers to arrange a planning meeting to progress the admission within 5 school days of the Placement Panel's decision being communicated to the parent(s).

the pupil will be placed on roll of the receiving school within 10 school days of the Placement Panel's decision. The receiving school will notify the Placement Panel of the date upon which the child is placed on roll, in order to maintain accurate data on the efficient working of the Placement Panels.

5.18. There will be at least one meeting each academic year for the Chairs of each Placement Panel to meet and review the performance of the Placement Panels and the Fair Access Protocol.

6. Process Direct Submission of Primary Applications (DSPA) (Appendix 5 Flowchart)

It is unlikely that primary schools will operate a system of Pupil Placement Panels. However the Local Authority will seek to work with representatives of schools' collaborative arrangements to support the implementation of the Fair Access Protocol.

6.1. Eligible primary aged children who fall within one of the categories for placement under the Fair Access Protocol (see para 4.1) will be referred directly to a school by the Exclusion Manager by either the school directly if they are their own admission authority or by the Local Authority admissions team.

6.2. Other than with a school's consent, schools will not normally be expected to admit more than 10% above their PAN any children who fall within one of the categories for placement under the Fair Access Protocol during any one academic year. Local Authorities and schools must adhere to Infant Class Size legislation. If the year of entry is Reception, Year 1 or Year 2 and a school already has classes of 30 pupils, a child will only be admitted if they would be a permitted exception as defined in the Schedule to The School Admissions (Infant Class Sizes) (England) Regulations 2012 (or as subsequently amended).

- 6.3. Where the Exclusion Manager identifies from the information provided for an in year application that a child is eligible and meets the criteria for the Fair Access Protocol, the application will be referred to one of the parent/carer's preferred schools for placement unless;
- 6.3.1. a school is in Special Measures;
 - 6.3.2. a school has recently come out of Special Measures or is otherwise assessed by the Local Authority as needing support;
 - 6.3.3. a school has no vacancies and the school has already admitted 10% above PAN under the Fair Access Protocol within the last year;
 - 6.3.4. to admit an extra child would breach infant class size legislation, as the child would not be a permitted exception; or
 - 6.3.5. there are reasons why a school would not be an appropriate placement for the child.
- 6.4. If for any of the above reasons it is not possible to place the child within one of the parent/carer's preferred schools, the Exclusion Manager will seek to place the child under the Fair Access Protocol in the nearest and most suitable school taking into account:
- 6.4.1. schools with vacancies;
 - 6.4.2. about the admission by either the parents/carer or the school;
 - 6.4.3. views of the parents/carer about the religious ethos of a school;
 - 6.4.4. the number of children who are Looked After and children with Statements of Special Educational Needs within each school and the number and frequency of previous Fair Access Protocol placements within the academic year and within each year group;
 - 6.4.5. distance, availability of transport and travelling times.
 - 6.4.6. the views of representatives of schools' collaborative arrangements (as appropriate).
- 6.5. If a school does not wish to admit a child who falls within one of the Fair Access Protocol categories outside the normal admission round even though places are available it should refer the case to the Exclusion Manager setting out the reasons why they do not feel they can place the child. However an exception is only likely to be made if the school is in special measures, has recently come out of special measures or is otherwise assessed by the Local Authority as needing support.
- 6.6. All schools including Academies are expected to arrange a meeting to progress the application within 5 school days and be on roll within 10 school days.

7. Funding

- 7.1. £100,000 has been allocated by the Schools Forum to support the Fair Access Protocol for the financial year 2013/2014. Beyond this, there is no guarantee of further funding for the next financial year.
- 7.2. This money is earmarked funding which comes under the management of Local Authority officers, and use of the funding has to comply with West Sussex standing orders and financial Regulations. The funding must be used to support the individual pupils identified through the Fair Access Protocol. There is no additional funding beyond the £100,000 allocated unless schools within the Area Partnership agree to make their own additional contribution.
- 7.3. In order to ensure that Placement Panels are clear about the funding allocated to them for the financial year, the money will be divided between primary aged pupils and secondary aged pupils. The division for secondary aged pupils in each area partnership will be decided upon by a review of historical patterns of admission – both in-year admissions and the admission of pupils identified as vulnerable and challenging.
- 7.4. Funding will be distributed in multiples of £250 based upon the identification of needs outlined in the table below:

No funding	Pupil funded or supported by another dedicated source
£250	Pupil whose personal/home circumstances may require short-term additional support to settle into a new school
£500	Pupil registered with YOS or history of fixed period exclusions from 5 to 15 days in any one term for aggression or bullying behaviour, or a history of persistent disruptive behaviour
£750	History of fixed period exclusions totalling over 15 days in any one term, for aggressive or bullying behaviour, or poor attendance of less than 80% over a term despite EWS input, or specialist support provided through a PSP for over a term

Funding will only be allocated after the school/academy have taken the student onto their roll and brought to panel or explained after discussion with the Exclusion Manager in the case of primary schools the reasons why funding is required with reference to the above bandings.

8. Basic Need

Whilst the Fair Access Protocol allows for the placement of children whose parents have been unable to find them a place after moving to the area because of a shortage of places, this should not be used to address the requirement under Basic Need provision for the Local Authority to supply sufficient school places.

9. Transport

For most placements there will be no entitlement to transport. However, if the placement would exceed the statutory walking distance and was not a result of parental preference, transport would normally be arranged by the Local Authority for the most appropriate public transport route.

10. Safeguarding

In all cases the Local Authority's duty to safeguard the child is paramount. Children out of school may be at risk and schools, with the Pupil Admissions Team, Exclusion Manager and any other relevant representatives of the Local Authority must do their utmost to ensure children are not out of school for extended periods of time.

11. Managed Moves (Appendix 4)

- 11.1. Managed moves are commonly used for secondary aged pupils but can apply to primary aged pupils. Secondary aged pupils are likely to comprehend the purpose of a managed move and family circumstances are also more likely to accommodate the arrangements that would be required to give a managed move every opportunity to succeed. This does not preclude a managed move for a primary aged pupil.
- 11.2. In some circumstances it may be appropriate for a pupil to transfer from one school to another for a fixed period whilst remaining on roll of the first school as an opportunity for a fresh start. Such arrangements require full knowledge and co-operation of all parties involved, including parents, pupil, both schools and the Local Authority, and should proceed according to the Managed Move Protocol. If the managed move is successful the child is transferred to the new school roll at the end of the fixed period. Managed moves should be arranged locally between schools usually *outside* Placement Panels (where they exist), and the local Placement Panel informed so that tracking is transparent.
- 11.3. Area Partnerships have worked with the Local Authority to produce a set of forms and information for use by schools when putting in place a Managed Move for a pupil. These forms have been shared with the Chairs of the Pupil Placement Panels and it has been

agreed that the information should be available for use within all schools in West Sussex.

12. Powers of Direction

The Code summarises the powers of direction given to Local Authorities under sections 96 and 97 of The School Standards and Framework Act 1998. In the case of an Academy, if it cannot agree with the Local Authority over admitting a child and refuses to admit, the Secretary of State can direct the Academy to admit the child.

- 12.1. Local Authority powers of direction (voluntary aided and foundation schools) - A Local Authority has the power to direct the admission authority for any maintained school in its area to admit a child even when the school is full. The Local Authority can only make such a direction in respect of a child in the Local Authority's area who has been refused entry to, or has been permanently excluded from, every suitable school within a reasonable distance. The Local Authority must choose a school that is within a reasonable distance from the child's home and from which the child is not permanently excluded. It must not choose a school that selects by ability unless the child meets the selection requirements, or a school that would have to take measures to avoid breaching infant class size legislation if those measures would prejudice the provision of efficient education or the efficient use of resources.
- 12.2. Before deciding to give a direction, the Local Authority must consult the governing body of the school, the parent of the child and the child if they are over compulsory school age. If, following consultation, the Local Authority decides to direct, it must inform the governing body and head teacher of the school. The governing body can appeal by referring the case to the Adjudicator within 15 school days. If it does refer, the governing body must inform the Local Authority. The Local Authority must not make a direction until the 15 days have passed and the case has not been referred.
- 12.3. If the case is referred to the Adjudicator, the Adjudicator may either uphold the direction or determine that another maintained school must admit the child. The Adjudicator's decision is binding. The Adjudicator must not direct a school to admit a child if this would require the school to take measures to avoid breaching infant class size legislation and those measures would prejudice the provision of efficient education or the efficient use of resources.
- 12.4. Secretary of State power of direction (Academies) - Where a Local Authority considers that an Academy will best meet the needs of a 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 are expected to come to an agreement, but if the Academy refuses to admit the child, the Local Authority can ask the Secretary of State to intervene the Secretary of State has power under an Academy's

Funding Agreement to direct the Academy to admit a child, and can seek advice from the Adjudicator in reaching a decision.

- 12.5. Local Authority powers of direction (community and controlled schools) - Where the Local Authority is the admission authority for the school, it does not need to direct admission. The Local Authority is the body charged with making decisions on admissions and the governing body of the community or controlled school is under a duty to comply with the Local Authority's decision. If the governing body fails to fulfil its legal duty in admitting a child, the Local Authority should ask the Secretary of State to intervene. The Secretary of State has the power to direct the school's governing body to fulfil its legal duty to comply with the Local Authority's decision to admit under section 497 of the Education Act 1996.

For further information and advice, please use the following contacts:

Richard Barker, Senior Manager Pupil Compliance 033022 28539

Pauline Constable, Exclusion Manager 033022 28537

APPENDIX 1

Operation of the Fair Access Protocol – Definition of the criteria

The interpretation below of the criteria used within West Sussex to determine which pupils will be discussed at the Pupil Placement Panels.

Criteria	Further explanation/thresholds (i.e. referral to Placement Panel)
a. Children attending PRUs and other Alternative Provision who need to be reintegrated into mainstream education*.	a. (i) Permanently excluded pupils; (ii) Rescinded permanent exclusions (L-shaped journey, i.e. not returning to the 'excluding' school); (iii) Pupils at risk of exclusion (AROE).
b. Children returning from the criminal justice system who need to be reintegrated into mainstream education*.	b. Only refer to the Placement Panel if they meet any of the other criteria.
c. Children who have been out of education for two months or longer*	c. No further explanation.
d. Children are electively home educated where home education is judge to have failed in the view of the Local Authority.	d. No further explanation
e. Children whose parents have been unable to find them a place after moving to the area because of a shortage of places.	e. No further explanation.
f. Children withdrawn from schools by their family following fixed term exclusions and have not secured another place.	f. This should only come to Placement Panel if the child is very unsettled in school or has attendance less than 80%.
g. Children of refugees and asylum seekers*.	g. Only refer to the Placement Panel if they can't be admitted quickly to the preferred school.
h. Homeless children*;	h. Only refer to the Placement Panel if they can't be admitted quickly to the preferred school.
i. Children with unsupportive family backgrounds where a place has not been sought*.	i. e.g. Children Missing from Education (CME).

j. Children known to the police or other agencies.	j. Children known to the police or other agencies, e.g. registered with Youth Offending Service (YOS).
k. Attendance below 80%	k. No further explanation
l. Children without a school place and with a history of serious school attendance problems.	l. Children with a history of seriously poor attendance, e.g. school refuser, attendance less than 80%.
m. Children of Gypsies, Roma and Travellers* .	m. Only refer to the Placement Panel if they can't be admitted quickly to the preferred school.
n. Children who are carers* .	n. Only refer to the Placement Panel if they can't be admitted quickly to the preferred school.
o. Children with special educational needs, disabilities or medical conditions (but without a statement)* .	o. Children with serious SEN (but without statements) e.g. school action plus for BESD, children who are carers.
p. Children of UK Service personnel and other Crown Servants.	p. Only refer to the Placement Panel if they can't be admitted quickly to the preferred school.
q. Pupils seeking places in Year 11	q. No further explanation.

APPENDIX 2

Local Authority powers of direction for children who are looked after— for information

1. A Local Authority also has the power to direct the admission authority for any maintained school in England to admit a child who is looked after by the Local Authority, even when the school is full. The Local Authority must not choose a school from which the child is permanently excluded but may choose a school whose infant classes are already at the maximum size, as these children are permitted exceptions under the Regulations.
2. Before deciding to give a direction, the Local Authority must consult the admission authority of the school it proposes to direct.
3. The admission authority must tell the Local Authority within 7 school days whether it is willing to admit the child.
4. If, following consultation, the Local Authority decides to direct, it must inform the admission authority, the governing body (if the school is a community or controlled school), the Local Authority that maintains the school, and the head teacher.
5. The admission authority can appeal by referring the case to the Schools Adjudicator within 7 days.
6. If the child has been permanently excluded from two other schools and the most recent exclusion was within the previous two years, the governing body (if the school is a community or controlled school) may also refer the case to the Adjudicator.
7. The admission authority or governing body must not refer the case to the Adjudicator unless it considers that admitting the child would seriously prejudice the provision of efficient education or the efficient use of resources.
8. If the admission authority or governing body does refer the case to the Adjudicator it must tell the Local Authority that looks after the child. The Local Authority must not make a direction until the 7 days have passed and the case has not been referred.
9. If the case is referred to the Adjudicator, the Adjudicator may either uphold the direction or determine that another maintained school in England must admit the child. The Adjudicator's decision is binding.
10. The Adjudicator must not direct an alternative school to admit a child unless the Local Authority that looks after the child agrees, nor if the child is permanently excluded from that school, nor if the admission of the child would seriously prejudice the provision of efficient education or the efficient use of resources.

APPENDIX 3

Local Authority Powers of Direction to an Academy – for information

Further details of the process for requesting that the Secretary of State direct an Academy to admit a child can be found in the Department for Education's Departmental Advice entitled: Fair Access Protocols: Principles and Process November 2012. <http://www.education.gov.uk/a00217650/fair-access-protocols-advice>

West Sussex County Council is committed to the expectation that Local Authorities and Academies are expected to mediate between themselves before a request is made to the Secretary of State to endeavour to identify a local resolution which will involve the Pupil Placement Panel for secondary aged pupils and any local representatives of schools' collaborative arrangements for primary aged pupils.

In general the process shall be that:

- Where a local resolution cannot be found, it is the responsibility of the Local Authority and the Academy to document the case for and against admission.
- When reviewing an Academy direction case, the Education Funding Agency will act on behalf of the Secretary of State to consider whether due process has been followed in applying the provisions of the Fair Access Protocol.
- In requesting a direction from the Secretary of State, the Local Authority must provide evidence that the provisions of the Fair Access Protocol have been applied in a fair and appropriate manner, the Academy's reasons for refusal and the Local Authority's response.
- The Local Authority should send the information to the Education Funding Agency. On receipt of a request to direct, the Education Funding Agency will inform the Academy that it has received a request for a direction. The letter will request that the Academy provide any evidence other than that already received, that the process has not been properly applied, within seven calendar days.
- Where the Secretary of State is asked to consider a direction he will make that decision on the basis of the papers provided, taking into account:
 - Whether the local Fair Access Protocol has been applied appropriately;
 - The arguments of the Academy and Local Authority, whether the authority has considered the arguments for refusal and why it still considers the Academy to be the appropriate provision for the child;
 - Whether the Academy has been asked to accept a disproportionate number of children under the Fair Access Protocol compared to other schools

Appendix 4

MANAGED MOVES

Good Practice Guidance for Schools

Introduction

Schools within the Area Partnership are committed to the principle that they are responsible for all pupils in the area. In order to minimise the risk of exclusion from school it is anticipated that all schools will support the use of Managed Moves in order to :-

- provide a fresh start in a new environment.
- reduce the number of exclusions.
- achieve an equitable distribution amongst schools of pupils who may benefit from a change of school placement.

It is anticipated that a Head Teacher will consider the option of a Managed Move prior to the implementation of a permanent exclusion.

Pre-planning

Managed Moves need to be timely, planned, monitored and success criteria reviewed. Partnership within a Managed Move will involve the pupil, parent and the two schools involved.

The parent(s)/pupil should be given time to consider the rationale and practicalities for a move and receive a copy of the Information Sheet 'Managed Moves – Information for Parents'.

The Local Authority's Access and Exclusion Team are available to give support to the process and it is proposed that Managed Moves are recorded through the tracking document of all pupils in the Area who may be deemed Vulnerable and/or Challenging. This information will be collated by the Access and Exclusion Team and monitored through the local Pupil Placement Panel.

The emphasis should be on a timely discussion and a fresh start.

Prior to the start of Managed Move

- Both schools will identify a named contact and inform the parent(s) and pupil.

- Pupil information will be shared between the two schools showing both areas of concern and pupil strengths e.g. IEP, PSP, exclusion history, Behaviour Log, attendance data, recent involvement from other agencies.
- Discussion will need to take place about travel arrangements and any costs to the new school both during the Managed Move and once the pupil transfers school roll, uniform requirements and cost, any particular attendance arrangements and the continuation of College or Work Experience placements for pupils in Key Stage 4.
- An agreed 'response' timescale should be set so that all parties know within the same time-frame whether there is agreement to the Managed Move going ahead.
- Pupil, parent(s) and appropriate staff members may make an initial visit to the receiving school and jointly complete the WASP Managed Move Agreement if proceeding.
- A copy of the Managed Move Agreement should be forwarded to the Access and Exclusion Team for data tracking of vulnerable pupils.

Target Setting

Targets should be SMART and personalised as well as accompanied by support strategies and a review timescale. A pupil who is on a Managed Move will not be expected to achieve a 100% turn around on the first day but evidence of improvement will be measured incrementally. It is expected that the pupil and parent(s) will contribute to target setting and that they are also clear what to expect from the receiving school.

A pupil induction programme should be established by the receiving school.

Review Process

A formal review process should be agreed, probably through a PSP. It is suggested that a 3 week review take place between schools to monitor progress and alert to potential concerns. At 6 weeks the move should be evaluated and targets reviewed.

At the 6 week review, the move could be deemed to be successful or to have failed. It could also be decided that an extension to the trial is required before a final decision is made. The review should incorporate the pupil/parents views.

If the receiving school deems the trial has failed before the completion of the Managed Move period, the Head teacher must confirm this in writing to the parent and to the home school Head teacher, specifying the date the pupil is expected to return to their home school.

Success, or not, should be measured against the agreed targets and evidenced by qualitative data and incremental achievements.

If the move is successful, the pupil will transfer onto the roll of the new school and the LA Admissions Team informed by the school originally instigating the move so that accurate records are kept centrally.

Pupils with statements of Special Educational Needs

If a school believes that a fresh start in a new school could benefit a pupil with a Statement of Special Educational Needs an interim annual review of the pupil's Statement should be held and a discussion be had with the appropriate SEN Team Manager.

Pupils for whom a school issues a permanent exclusion

There are occasions when a Head Teacher will impose a permanent exclusion because it is considered a pupil can no longer be part of that school's community for behavioural reasons but the circumstances around the exclusion indicate that the pupil could benefit from a fresh start in a new school. In such cases the Access and Exclusion Team can work with the school and other schools in the Partnership to identify a new school place and the exclusion, with parental agreement, could be withdrawn prior to the Governors Discipline Committee meeting.

Such a move to a new school may still fall under the Managed Move Protocol but it would be understood by all parties that the pupil could not return to the original school, and would need to be brought to the vulnerable and challenging pane for a new placement to be identified.

Confirmation received and agree to the Protocol

Comments

Name of Schoo