



London Borough of Newham
School Admissions
Fair Access Protocol

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1. Introduction and the law

All Local Authorities in England must comply with the legislation regarding Admissions. The admissions duties of local authorities are set out within the School Standards and Framework Act (SSFA) 1998. The SSFA and relevant regulations sets out a number of duties LAs must carry out at different times of the admissions cycle.

In addition, all local authorities must comply with the new [School Admissions Code](#) which came into force on 1 September 2021 and replaced the previous 2014 version.

The [School Admissions Code](#) imposed mandatory requirements and includes guidelines, setting out aims, objectives and other matters in relation to the duties relating to school admissions functions provided by the bodies listed below:

- Governing bodies and local authorities (when not the admission authorities)
- Admission authorities for maintained schools (being the local authority for community schools)
- Academies and Academy Trusts (this includes community and foundation school converters and free schools)
- Schools Adjudicators
- Admission appeal panels.

These bodies have a statutory duty to act in accordance with the relevant provisions of the [School Admissions Code](#).

The Local Authority has the duty to provide suitable education or otherwise for all children of compulsory school age resident in its borough boundaries.

Academies are required by their funding agreement to comply with the [School Admissions Code](#) and the law relating to admissions. The Secretary of State has the power to vary this requirement if required.

When vulnerable and/or hard to place children from groups specified by the Department of Education are having difficulty in securing a school place in-year and it is demonstrated that reasonable measures have been taken to secure a place through the usual in-year admission procedures, then LAs must process these children through a local agreement called a Fair Access Protocol (FAP). The key aims and objectives set out within the [School Admissions Code](#) is listed below.

The School Admission Code 2021 - Fair Access Protocol

3.14 Each local authority must have a Fair Access Protocol to ensure that unplaced and vulnerable children, and those who are having difficulty in securing a school place in-year, are allocated a school place as quickly as possible.

3.15 The Protocol must be consulted upon and developed in partnership with all schools in its area. Once the Protocol has been agreed by the majority of schools in its area, all admission authorities must participate in it. Participation includes making available a representative who is authorised to participate in discussions, make decisions on placing children via the Protocol, and admitting pupils when asked to do so in accordance with the Protocol, even when the school is full. Local authorities must provide admission authorities with reasonable notice and information as to how and when discussions around the placement of children via the Protocol will take place.

3.16 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 placed via the Protocol. Fair Access Protocols must also set out how the needs of children who have been permanently excluded, and children for whom mainstream education is not yet possible, will be met.

This document, sets out the Fair Access Protocol for the London Borough of Newham. It has been formulated to ensure compliance with the School Admissions Code 2021 and Equality Act 2010. It seeks to ensure that there is no discrimination against pupils, parents or carers because of their: sex, race, disability, religion or belief and sexual orientation or pupils who are pregnant or undergoing gender reassignment. The exception to the discrimination provisions, for schools that existed under previous legislation, is admissions to single-sex schools.

2. Overview

Regulations introduced Fair Access Protocols (FAP) as an instrument that aims to ensure vulnerable children and those having difficulty in securing a place via in-year admissions are placed as quickly as possible. Our Fair Access Protocol was developed in partnership with schools from the local area (council boundary) and is agreed by the majority of those schools.

The Fair Access Protocol will not be used in place of or as a tool to circumvent standard in-year admission processes or act as a barrier to admission.

3. Consultation and review

Consultation and implementation

London Borough of Newham developed this Fair Access Protocol in consultation with:

- LB Newham's Education Partnership Board (EPB)
- Chief Executive Officers of academy trust schools located in Newham.
- Head teachers and principals of all schools located in Newham.
- Local Authority senior management team (ESMT)
- Local Authority officers who are members of the Pupil Placement Panel.

The [School Admissions and Place Planning Forum](#) agreed the final version for publication and operational implementation.

Review

The London Borough of Newham's [School Admissions and Place Planning Forum](#) will conduct an annual review each summer term of the Fair Access Protocol and any agreed changes will be effective from 1 September of the new academic year.

Statutory variations

Legislation changes will be applied to this Protocol in accordance with published timeframes. Any statutory changes made outside our normal review will automatically be included as legislated.

Disputes

The School Admission Code 2021:

3.22 In the event that the majority of schools in an area can no longer support the principles and approach of their local Fair Access Protocol, they should initiate a review with the local authority. There should be a clear process for how such a review can be initiated within each Fair Access Protocol. The existing Fair Access Protocol will remain binding on all schools in the local area until the point at which a new one is adopted.

4. Publication

This Protocol is available via:

- London Borough of Newham website – named Fair Access Protocol
- Via links from the websites of all academies and schools located within Newham
- Printed copies are available upon request by emailing pupil.services@newham.gov.uk or calling the Council on 020 3430 2000

5. Scope

Fair Access Protocols do not apply to all children seeking a school place. The Protocol can only be applied to the placement children in the DfE prescribed groups, listed in section 6 and where a place cannot be secured via the standard in year admissions process.

For the purposes of this Protocol the London Borough of Newham is adopting the Department for Education's definition of challenging behaviour as specified in footnote 76 of the [School Admissions Code – September 2021](#).

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' education or jeopardise the right of staff and pupils to a safe and orderly environment.

For prescribed groups j) and k) below both new arrivals without a place and those changing schools as part of the in-year admissions process may be considered.

[School Admission Code September 2021](#)

3.17 Fair Access Protocols may only be used to place the following groups of vulnerable and/or hard to place children (see point 6 below), where they are having difficulty in securing a school place in-year, and it can be demonstrated that reasonable measures have been taken to secure a place through the usual in-year admission procedures.

For example, where a completed in-year application has been made by a new arrival to Newham and preference cannot be met and the local authority has confirmed that there are no suitable places available at any school within the borough boundary.

Applicants not permitted under the Fair Access Protocol:

Based on the school admissions regulations, we cannot consider applications under this Fair Access Protocol if the application is:

Part of the co-ordinated arrangements for the normal points of entry / transition, which are:

- Reception
- Infant to junior transition
- Primary to secondary transition
- Transition to an atypical school (schools who admit outside the normal points of standard school transition points (Studio Schools and University Technical Colleges).

OR

- for a child with an education health and care plan (EHC plan)
- for 'Looked after children' being those in the care of a local authority.
- For children not recognised as being in the prescribed groups (see point 6 below).

Note: the Fair Access Protocol can be used to place previously looked after including those who it is believed were previously in state care overseas as there is a strong expectation that these children will not require a placement using the FAP process.

6. Children considered under this Fair Access Protocol

- 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 Protocol;
- b) children living in a refuge or in other Relevant Accommodation at the point of being referred to the Protocol;
- c) children from the criminal justice system;
- d) children in alternative provision who need to be reintegrated into mainstream education or who have been permanently excluded but are deemed suitable for mainstream education;
- e) children with special educational needs (but without an Education, Health 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 Protocol in accordance with paragraph 3.10 of this Code;
- k) children for whom a place has not been sought due to exceptional circumstances⁸³;
- l) children who have been out of education for four or more weeks where it can be demonstrated that there are no places available at any school within a reasonable distance of their home. This does not include circumstances where a suitable place has been offered to a child and this has not been accepted; and,
- m) previously looked after children for whom the local authority has been unable to promptly secure a school place⁸⁴.

7. Definitions of children considered under this Fair Access Protocol (section 6)

a) Children subject to a Child in Need Plan or a Child Protection Plan.

Children registered with Social Care as being subject to a current Child in Need Plan or Child Protection Plan or those who were at any time in the 12 calendar months prior to the date of the referral to the Pupil Placement Panel under this Fair Access Protocol.

Child in Need Plans and Child Protection Plans are plans of help and protection to address safeguarding and welfare needs. Where a child has been assessed by the local authority as being a child in need under Section 17 of the Children Act 1989 and/or as suffering or likely to suffer significant

hardship under Section 47 of the Children Act 1989. See also statutory guidance Working Together to Safeguard Children (2018)

b) Children living in a refuge or in other Relevant Accommodation.

Children living in accommodation that is safe for victims and their children. The description of this accommodation is specified by the Secretary of State in regulations, which must include refuge services, which are provided in separate or single-sex services within the meaning given in Part 7 of Schedule 3 to the Equality Act 2010 and the address of which cannot be made publicly available or disclosed.

c) Children from the criminal justice system.

Children and young people returning from

- The UK prison system including Young offender institutions, which are part of the criminal justice system of the United Kingdom;
- Secure training centres and
- Secure children's homes.

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.

Children whose last or current education placement was an alternative provision and those who have been permanently excluded for whom professionals from their most recent placement have provided written representations and supporting evidence that indicates the child is now suitable for a mainstream placement.

e) Children with special educational needs (but without an Education, Health and Care plan), disabilities or medical conditions.

Children with special educational needs 'Code K' or whom are disabled or have a diagnosed medical condition.

For the majority of children formally recognised as having special educational needs, a disability or a medical condition – or for new arrivals where the school or local authority believes this to be the case but there is no formal diagnosis has been made the standard admission process will ensure they have a suitable school place.

In exceptional cases these children may be referred for an assessment by the Pupil Placement Panel to determine if they need a specialist placement including a resource provision or medical Outreach.

See appendices 2 and 3 for the pathways.

f) Children who are carers.

Children under 18 who help to look after a relative with a disability, illness, mental health condition, or drug or alcohol problem are young carers.

For these children The Children and Families Act and Care Act 2014 requires local authorities to identify if there are any children within a family where an adult member of the family has care and support needs. These young carers are entitled to a young carers assessment to identify any support needs.

g) Children who are homeless.

Children whose legal guardian is recognised as homeless by The Housing Act 1996 (ss. 175-177) as amended by the Homeless Reduction Act 2018; chapter 6 Homelessness Code of Guidance.

A person is legally defined as homeless if:

- they have no accommodation available in the UK or abroad
- they have no legal right to occupy the accommodation
- they have a split household and accommodation is not available for whole household
- it is unreasonable to continue to occupy their accommodation
- they are at risk of violence from any person
- they are unable to secure entry to their accommodation
- they live in a moveable structure but have no place to put it.

h) Children in formal kinship care arrangements.

Definition from CoramBAAF

Children whose parents are unable to look after them on a short or long term basis are cared for by other relatives, like grandparents, uncles or siblings, or by other adults who have a connection to the child, such as neighbours or a close friend of the family, as evidenced by either a child arrangements order not relating to either birth parent or a special guardianship order.

Depending on the specific circumstances, kinship carers will have different rights, responsibilities and support available to them.

Kinship care includes children who may be:

- living in informal arrangements made by their birth parents with a close relative, or by default, for example because their birth parent has died or abandoned them;
- living with private foster carers;
- looked after by the local authority and placed with kinship foster carers who will need to be approved as foster carers;
- on a **"Child Arrangement Order" or "Special Guardianship Order" granted by the court;**
- in arrangements which are due to lead to adoption by a relative or friend;
- living with testamentary guardians when a parent has died.

Important: Whilst there are a significant number of circumstances detailed above where kinship can apply in footnote 82 of the School Admissions Code states to be considered under a Fair Access Protocol only those children who Kinship is evidenced by either a child arrangements order not relating to either birth parent or a special guardianship order.

i) Children of, or who are, Gypsies, Roma, Travellers, refugees and asylum seekers.

Children of, or who are Gypsies, Roma and Travellers. Being persons born Gypsies and Travellers and elective Travellers such as New Age Travellers.

Persons who wander or travel for the purpose of making or seeking their livelihood (not persons who move from place to place without any connection between their movements and their means of livelihood) – as defined by Lord Justice Neil at the Court of Appeal in 1994.

Asylum seekers (persons seeking asylum)

Children of families, or in their own right who have left their country and be unable to go back because you fear persecution or they have experienced violence or human rights violations. They will be claiming to be a refugee but application has not been evaluated.

Refugees

Children of families, or in their own right, who have sought international protection under international, national or regional law as a refugee after entering the UK and their Refugee Status Determination (RSD) is accepted by the UK Government.

j) 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 the School Admission Code.

Children referred by an admission authority (including the local authority) based on information obtained in accordance with GDPR for consideration under the Fair Access Protocol. These can only be children considered as being in one of the Department for Education specified groups.

k) Children for whom a place has not been sought due to exceptional circumstances.

Children who the local authority decides qualifies to be placed via this Protocol as a result of their exceptional circumstances and are not part of any of the other Department for Education specified groups.

l) Children who have been out of education for four or more weeks where it can be demonstrated that there are no places available at any school within a reasonable distance of their home. This does not include circumstances where a suitable place has been offered to a child and this has not been accepted;

Children who have been out of education for four or more weeks, either because their parents/carers have not or refuse to apply for a school place

m) Previously looked after children for whom the local authority has been unable to promptly secure a school place.

Children who were previously looked after but immediately after being looked after became subject to an adoption, child arrangements, or special guardianship order including those who appear [to the admission authority] to have been in state care outside of England and ceased to be in state care as a result of being adopted.

An adoption order in England, is an order under the Adoption Act 1976 (see Section 12 adoption orders) and children who were adopted under the Adoption and Children Act 2002 (see Section 46 adoption orders). A 'child arrangements order' is an order settling the arrangements to be made as to the person with whom the child is to live under Section 8 of the Children Act 1989 as amended by Section 14 of the Children and Families Act 2014. Section 14A of the Children Act 1989 defines a 'special guardianship order' as an order appointing one or more individuals to be a child's special guardian (or special guardians).

8. Identification of pupils for consideration under this Fair Access Protocol

Referrals to the Pupil Placement Panel, for consideration under the Fair Access Protocol, are the responsibility of the persons or education providers detailed below:

a) Children who could not secure a place via the standard in year admission process: Pupil Services admissions lead officer.

- b) Children for whom a place has been sought due to exceptional circumstances – where these are known before placement via the standard in year admissions process: Local authority case officer.
- c) Children who have been out of education for more than four weeks and the family are refusing to apply for a school place or arrange education otherwise: Child Missing Education lead officer.
- d) Children who were permanently excluded and their current provision recommends a transition to mainstream: Senior leader from current provision.
- e) Child who is being refused a place on the grounds of their challenging behaviour: Senior leader from school who would usually be expected, under standard admissions, to admit the child.

All referrals must use the Pupil Services [PPP referral eform](#)

9. Pupil Placement Panel (PPP)

The Pupil Placement Panels (PPP) are the London Borough of Newham's recognised body for considering the placement of vulnerable and/or hard to place children. When the family and the local authority are experiencing difficulty in securing a school place in-year and where it can be demonstrated that reasonable measures have been taken to secure a place through the usual in-year admission procedures in the groups details in section six of this Protocol.

Primary Pupil Placement Panel: for pupils in academic year groups, reception to year 6

Secondary Pupil Placement Panel: for pupils in academic year groups' 7 to 11.

Frequency of meetings

Both panels will meet at least every 20 school days.

All meetings are pre-booked with electronic calendar invites at the start of every academic year to ensure that members have sufficient notice to prepare for and attend meetings.

Membership/Attendees

Chair - member of the CYPS education senior management team.

Clerk - admission and appeals team manager (pupil services)

Other attendees are listed in categories a, b and c below.

- a) **Head teachers and Principals** from all year group specific mainstream schools located in Newham (or their nominated representatives who has the delegated power to make decisions on behalf of the head teacher and or the admission authority).

Role:

- attend Placement Panels;
- cascade, with sufficient notice, meeting detailed to any nominated representatives;
- participate in all discussions;
- participate in relevant decision making;
- be responsible for the admission of any child where their school is named by the Placement Panel;
- review any cases being referred by their admission authority/school under 3.10 of the Admissions Code, to ensure compliance of supporting evidence;
- present any cases referred by their admission authority/governing body under 3.10 of the Admissions Code;

- provide full answers to any questions regarding their referrals;
- review referrals from other admission authority/schools ahead of the meeting and prepare questions;
- provide detailed updates on all current live cases, involving their admission authority/school;
- complete detailed handovers, if their admission authority/school rotates membership;
- manage to conclusion any actions for their admission authority/school emanating from the Placement Panel;
- participate in Placement Panel focus groups.

b) Local authority representatives for area of work detailed below:

- Admissions
- Alternative provisions
- Attendance incorporating children missing education
- Children with or in need of social care involvement
- Elective home education
- Exclusions incorporating managed moves
- Legislation and Protocol advice
- Special Educational Needs
- Youth offending

Role:

- attend Placement Panels;
- participate in all discussions;
- participate in relevant decision making;
- provide accurate and complete data as required by the Placement Panel;
- review referrals from other admission authority/schools ahead of the meeting and prepare questions;
- provide detailed updates on all current live cases involving their area;
- complete detailed handovers, if their role is rotated with other officers
- manage to conclusion any actions for their admission authority/school emanating from the Placement Panel;
- participate in Placement Panel focus groups;
- provide relevant legislation or local policy advice;
- support admission authorities/schools in the admission of vulnerable children or those who display challenging behaviour.

c) Other attendees (ad hoc)

- Police officers
- Representatives from other local authorities or education provisions outside of Newham to enable cross border working for specific case
- Other professionals
- Observers and/or those learning their role.

Decisions

The Pupil Placement Panel are responsible for all decision making under the Fair Access Protocol.

Each attendee will have a delegated responsibility to vote on every decision. When more than one delegate is represented in each area listed above, there can only be one vote per school, education provider or officer.

The school or education provider of those identified as being able to the child's needs, with the highest number of votes, will be the named school who must admit.

In the event of a split vote, the Chair will have the casting vote and may ask each of the possible schools to summarise their case before making the final decision.

Failure to participate

Where a nominated attendee fails to participate in the Pupil Placement Panel as outlined in this Protocol, the local authority will contact them and, if necessary their school leader to remind them of future expectations. If an attendee continues to fail to fulfil in their role the school or team will be asked to nominate another attendee.

10. Operating principles for successful application of local and statutory processes

- All schools including alternative provisions located in Newham fully comply with the requirements of this Fair Access Protocol;
- The processes underpinning this Protocol are fair, clear and transparent;
- All local authority officers with Placement Panel responsibilities and the nominated staff from all schools alternative provisions located in Newham fully understand the local Placement Panel, the Fair Access Protocol and the associated regulations and fully participate in the discussions and decision making.
- All schools share a collective responsibility along with the Local Authority to ensure swift admission to a suitable school or alternative provision for all children of compulsory school age who are resident in Newham who do not have a school place or who are otherwise matched the criteria for consideration, as described above;
- No school, including those with available places, is required to take a disproportionate number of children who have been excluded from other schools, or who display challenging behaviour;
- Placement Panel discussions and decisions should reflect a fair and transparent balance between finding a place quickly (e.g. in an undersubscribed school) and finding a place that is appropriate for the child;
- London Borough of Newham has a duty to provide suitable education for its residents of compulsory school age, irrespective of the location of a child's current education provider;
- All placement decisions take into account the needs of the child and the whole community of any proposed school;
- When choosing suitable placements for pupils under this Protocol, reasonable consideration should be given to the additional challenges faced by schools who have been identified by Ofsted as being 'Inadequate' or 'Requiring Improvement', where that has led to a 'Notice to Improve' or a school has been in special measures within the preceding 12 months;
- Head teachers, or their nominated representatives, making submissions regarding Fair Access cases will provide full, honest and current information to enable the Placement Panel to make its decisions effectively;

- Named schools will admit the pupil within a maximum 10 school days of being formally notified of the Placement Panel's decision. The named school must contact the family to arrange an admission meeting or multi professionals meeting within three school days of notification. That meeting may or may not require the attendance of the family, unless the decision of the Placement panel is that a delayed start is in the best interest of the child;
- Schools cannot cite being full or their oversubscribed as a reason for not admitting pupils legitimately placed under this Protocol;
- Pupils who placed by the Placement Panel will be given priority admission over others on a waiting list as placements using this Protocol are outside of waiting list regulations.
- The local authority and schools within Newham will ensure there are no barriers to admission and recognise that refusal to admit a child legitimately placed under the terms of this Protocol may result in appropriate action being initiated against a maintained school. In the case of academies, the school would be referred to the Education and Skills Funding Agency.
- Schools will not refuse to admit a child who has been denied a place at that school at independent admission appeal if, through the application of this Protocol, the Panel identifies that school as the one to admit the child;
- Due regard will be given to the Infant Class Size regulations, noting that there are some circumstances where a child may be admitted into an infant class which is full as an 'excepted pupil';
- Placement Panel decisions cannot override the statutory right of parents to express a preference/make an application for a particular school, nor their right of an independent appeal where a place at such a school is refused;
- For continuity of education and other matters, when a Newham vulnerable child or a child with challenging behaviour has been educated at home for a short time or overseas for a short period they may be offered a mainstream place at the school they left.

11. Fair Access documentation/evidence

The admission authority officer or education provider making the referral under the Fair Access Protocol must provide written representation at least 5 school days before meeting and deliver verbal representations at the meetings – no case will be heard in absence.

12. Considerations for decision making - placement of pupils under the Fair Access Protocol

The prime objective of this Fair Access Protocol is to ensure that pupils who are vulnerable, excluded or display challenging behaviour, are placed quickly in a suitable school. No schools are expected to admit a disproportionate number of FAP children. All discussions and decisions are to be open and transparent, whilst remaining confidential to panel members.

The following questions must be borne in mind by Pupil Placement Panel members when determining placements for the children under their consideration.

About the child

- Is the child recognised as being in one of the prescribed groups? If no, the Fair Access Protocol cannot be used to determine their placement, standard in year process will apply.

- Has the child secured a place/admission under the standard in year admissions process? If yes, the Fair Access Protocol cannot be used to determine their placement unless they are being considered under prescribed groups j) or k).
- The particular needs of the child and which school or schools may best be able to support those needs.
- Any information supplied by the parents/carers as part of their school application.
- Is the child ready for placement in a mainstream school or do they require a short term assessment placement in an alternative provision in order to access suitable intervention strategies to assist with school readiness.
- Information supplied by Pupil Referral Units or Alternative Provisions including progress reports.
- Will returning to their last school in Newham best meet the continuity of education for a child returning to formal education from short term Elective Home Education or short term education overseas (excluding holidays and family visits) or another LA?
- Will good quality alternative provision provide a better outcome, or a more suitable next stage, for any child deemed not ready to return to a mainstream environment?
- Are there genuine concerns to be taken into account such as a previous serious breakdown in relationship between the school and the family, or a strong aversion to, or desire for, the religious ethos of the school?
- Are there strong, proven links between the child and any potential school that should lead the panel to remove that school from consideration due to health and safety concerns?
- Will the child's travel arrangements to any proposed provision be practical and sustainable, to maximise school attendance and minimise the need for home to school travel assistance and /or transport?
- For young people undertaking GCSE courses, has consideration been given to the child's current subjects, syllabuses and projections, in order to identify a school that can provide a best match, or might alternative provision offer a brighter prospect in relation to completing Key Stage 4 and preparing for Key Stage 5?
- Are there exceptional circumstances that may warrant the deferment of a placement decision (for example, to obtain multi-professional assessments or undertake risk assessments) and the implementation of interim educational provision, pending receipt of fuller advice or information?
- Taking parental preference been taken into account. Although there is no duty for local authorities or admission authorities to comply with parental preference when allocating places through the Fair Access Protocol, parents' views may provide context that may support a place at one school over another.
- Schools who have already admitted children under the Fair Access Protocol in the current period.

The views of schools and alternative provisions

The Admissions Code states

3.16 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 placed via the Protocol.

This means all placement decisions should be fair, equitable and consistent.

Disproportionality

In accordance with Department for Education guidance, no schools with available places should not be expected to admit all children being placed via the Fair Access Protocol where doing so would mean they are being asked to take a disproportionate number of such children compared to other local schools. Locally we extend this rule to all schools both with and without places available.

The disproportionality requirement only applies to pupils being admitted in year via the Fair Access Protocol and does not take into account pupil admitted via normal admission or those who are Looked After or Previously Looked After. This means a disproportionality and applies to new admissions and not a school roll.

In addition no schools should be required to automatically admit a child via the FAP in place of another child permanently excluded from the school. This means there no requirement for a school who excludes a pupil to admit the next child who is excluded or placed via the Fair Access Protocol for example a one in one out rule must not be applied.

For compliance and fairness, other than in exceptional circumstances where a particular school should or should not be named for a vulnerable pupil or a pupil displaying challenging behaviour. This means no school located in Newham will be expected to admit a child under this Fair Access Protocol unless all other schools (of the same phase of education) have already admitted the same number of pupils under this Protocol.

Only when all schools located in Newham, for the same education phase have admitted one child under the Fair Access Protocol, will any school be asked to take a second pupil and so on.

13. Outcomes

The key outcome is for all children presented under the Fair Access is placement within the 20 schools days.

For each child presented the possible outcomes are that they are:

- o named at a mainstream school;
- OR
- o named at an alternative provision (PRU);
- OR
- o named at an alternative provision (non PRU);
- OR
- o dual registered – at a mainstream school and alternative provision;
- OR
- o assessed for a specialist SEN placement;

If the Panel does not agree that the child is eligible for placement under Fair Access, they will be named at a mainstream school using standard admissions procedures.

Placement recognition

Any school named by the Pupil Placement Panel as the new placement for a children under the Fair Access Protocol will be recorded in the local authority's figures.

- Which placements are included in the placement recognition figures?
 - children returning to mainstream from a PRU or alternative provision, who are not currently on dual roll with a school in Newham;
 - children returning from the criminal justice system;
 - children whose families will not apply for a school place and they are not in receipt of suitable education;
 - children who named school under standard admissions exercised their right to refuse admission under 3.10 of the [School Admissions Code](#);
 - children whose placement is agreed by the membership of the panel as exceptional.

- Which placements are not included in the placement recognition figures even if their characteristics meet one the prescribed Fair Access Protocol groups?
 - children placed via normal admissions;
 - children placed via standard admissions;
 - children who are looked after or were previously looked after;
 - children with an Education Health and Care plan;
 - children returning to mainstream education from Elective Home Education unless their named school refuse under 3.10 of [School Admissions Code](#) and this is upheld by the Pupil Placement Panel;
 - children returning to mainstream education from a period overseas or elsewhere in the UK unless their named school refuse under 3.10 of [School Admissions Code](#) and this is upheld by the Pupil Placement Panel;
 - children with challenging behaviour who are placed under standard admissions, where the named school believes their admission will result in a disproportionate number of children with challenging behaviour being on their roll BUT the school does not refuse admission under 3.10 of the [School Admissions Code](#).
 - children whose named school refused to admit under 3.10 of the [School Admissions Code](#) but the Pupil Placement Panel did not uphold the request for the case to be considered as meeting the requirements of the Fair Access Protocol – meaning the school must admit under standard admissions.

- Will all placements under the Fair Access Protocol attract the same level of recognition?
 - All children placed under the Fair Access Protocol by the Pupil Placement Panel will attract one recognition point.
 - Some pupils, where their challenging behaviour is deemed at a higher threshold than standard Pupil Placement Panel, will attract a one* recognition placement in place of the standard recognition point. For example a child who the Pupil Placement Panel would have expected to have been permanently excluded by their current/last school.

Where admission does not take place, meaning the child does not start at the named school, the recognition point will be removed.

If school other than the Pupil Placement Panel named school admits a children agreed by the Pupil Placement Panel as Fair Access, the recognition point will follow the child.

Notifications

Parents/carers will be notified of outcomes within **2 school days** of the Panel's decision.

Issuing outcomes is the responsibility of the local authority:

- mainstream placements – Pupil Services
- alternative provisions placements – Behaviour Support
- assessment placements – 0-25 SEND Service.

In all cases, where parental preference has not been met, the outcome letter must will information regarding the parent's statutory right of an independent appeal for any preferred school where they have been refused a place.

14. Challenging the decision of the Pupil Placement Panel

Parents/carers

The admission appeals process is independent from the Fair Access Protocol. Where a child has been referred to the Fair Access Protocol, their parents retain the right to make further in-year applications and appeal against the refusal of a school place.

Schools and admission authorities

Schools and admission authorities should be aware that where they refuse a child a school place and subsequently refer them to the Fair Access Protocol, they may later be required to admit that child if an appeal is upheld. This would still 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.

Where a school refuses to admit a child the Pupil Placement Panel have three possible outcomes, all of which may not apply to every case:

- Uphold the schools refusal to admit and agree that the child should be placed under the Fair Access Protocol and in doing so name a new school.
OR
- Do not uphold the refusal to admit. Meaning the named school must admit under standard admissions without recognition of Fair Access.
OR
- If applicable decide that the child should be referred for a 'New arrival SEND assessment' before the named school or education provision for admission is agreed.

The Pupil Placement Panel's decision is final and the named school or education provision must admit without delay.

15. Refusals to admit following PPP outcome

Where a school is named via the Fair Access Protocol and the school does not admit within the agreed published timescale the local authority will take immediate action to ensure the child does not lose their right to access education.

Maintained schools where the local authority is the admission authority: appropriate internal action will be taken, if local mediation does not secure admission.

Maintained schools where the school is not the admission authority: the local authority will initiate the direction process, if local mediation does not secure admission.

Academy schools: the local authority will initiate the direction process, if local mediation does not secure admission.

16. Monitoring

Pupil Services are responsible for establishing and maintaining clear and transparent Fair Access Protocol placement figures in order to underpin the fairness of the decision-making process;

Fair Access statistics will be circulated, with head teachers and all Pupil Placement Panel members, at least termly in order to monitor the performance and effectiveness of the Protocol.

Internal/external auditors or the Office of the Schools Adjudicator may review this Fair Access Protocol and the actions of the Pupil Placement Panel for compliance, fairness and transparency on an ad hoc basis.

17. Figures and statistics

Pupil Services will maintain Fair Access Protocol placement data using the CYPS education management information system.

For each new academic year, the Fair Access Placement data of the previous school year will be rolled forward to create the baseline position.

Figures will be circulated at the first Placement Panel of the school year and placements from that meeting will be made using the rolled forward data.

18. Escalation

For complex casework involving vulnerable and challenging pupils of ongoing concern the Chair of the Pupil Placement Panel may escalate to the Education Management Team.

19. Financial Matters

Fair Access Protocol admissions do not attract any additional funding.

Schools are not required to fund the placement of Fair Access pupils into an Alternative Provision where the panel determines that a child cannot be admitted to a mainstream school for at least one academic term. Where the Pupil Placement Panel agree an Alternative process is the recommended placement, the local authority will fund the placement.

Where a school is named and it is agreed that the pupil may need early intervention work to ensure a smooth transition into school, the school may choose to direct a pupil to Alternative Provision at the school's expense.

Recommended Associated Reading

[Department for Education – School Admissions Code \(December 2021\)](#)

[Department for Education – Fair Access Protocols: Guidance for school leaders, admission authorities and local authorities \(August 2021\)](#)

The School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements)(England)Regulations 2021

[Department for Education – Appeals Code \(February 2012\)](#)

[School and Standards Framework Act1998](#)

[Department for Education - School Attendance main guidance – August 2020](#)

[Children Missing Education statutory guidance September 2016](#)

[Department for Education – Behaviour and Discipline in School Guidance for Governing Bodies \(2013 reviewed January 2017\)](#)

[Department for Education – Behaviour and Discipline in School Guidance for head teachers and schools staff - January 2016](#)

[Getting Simple Things Right - Charlie Taylor's Behaviour Checklists](#)