



Havering
LONDON BOROUGH

London Borough of Havering Fair Access Protocol 2024/2025

Issue Date: 15 July 2024
Effective from Date: 01 September 2024
Review Date: 01 July 2025

Fair Access Protocol Version Control

Changes	Page
2022/2023 Complete review to the 2021/2022 FAP Protocol to comply with new DfE Fair Access Protocol (August 2021) and Schools Admissions Code (September 2021)	All pages
2023/2024 Point 2 – 2.7 - Principals of Fair Access Protocol Point 6 – 6.1 - The Fair Access Protocol panels	Page 3 Page 5
2024/2025 Complete review to the 2023/2024 FAP Protocol	All pages

Contents

1. Introduction	3
2. Legal Framework.....	3
3 Children eligible to be considered under the Fair Access Protocol	4
4 Children with Challenging Behaviour	5
5 Operating Principles and Arrangements of the Fair Access Panel	6
6 Monitoring Arrangements	8
Appendix 1	9
Primary FAP Groups:.....	9
Appendix 2	10
Fair Access Panel Dates.....	10

1. Introduction

- 1.1. As set out in the [School Admissions Code 2021](#) (hereafter known as The Code), all local authorities must have a Fair Access Protocol (FAP) to ensure that outside the normal admissions rounds, unplaced children, especially the most vulnerable, and those who are having difficulty in securing a school place in-year, are allocated a school place as quickly as possible.
- 1.2. The operation of the Fair Access Protocol is triggered when an eligible child has not secured a school place under the in-year admission arrangements. It must be agreed by the majority of schools and applies to all admissions authorities in Havering, including Voluntary Aided, Academies, Foundation and Free Schools.
- 1.3. All admission authorities must participate in the Protocol. Participation includes making available a representative who is authorised to participate in discussions, make decisions on placing children via the Protocol, and admitting children when asked to do so in accordance with the Protocol, even when the school is full.
- 1.4. The Protocol aims to ensure that no school, including those with available places, is asked to take a disproportionate number of children who have been excluded from other schools or who have challenging behaviour.

2. Legal Framework

For local authorities

- 2.1 Local authorities have a legal duty to ensure that all children of compulsory school age, regardless of their needs and circumstances, are in receipt of suitable full-time education ([Section 19, Education Act 1996](#)) unless reasons that relate to their medical condition mean that this would not be in their best interests ([Section 3 of the Children, Schools and Families Act 2010](#)).
- 2.2 Every local authority must have a Fair Access Protocol, agreed with the majority of schools in its area, to ensure that unplaced children, especially the most vulnerable, are offered a school place as quickly as possible (3.14 of The Code).
- 2.3 The Protocol must include how the local authority will use provision to ensure that children whose needs cannot be met by mainstream schools will receive their educational entitlement.
- 2.4 The local authority must ensure that no school, including those with available places, is asked to take a disproportionate number of children who have been excluded from other schools or who have challenging behaviour, including requiring a school automatically to take another child with challenging behaviour in place of a child excluded from school.
- 2.5 The Protocol aims to support the safeguarding of children and young people by ensuring that they are accessing education and may only be used to place groups of vulnerable and/or hard-to- place children (3.17 of The Code).

For Schools

- 2.6 Admission authorities must not refuse to admit a child thought to be potentially disruptive, or likely to exhibit challenging behaviour, on the grounds that the child is first to be assessed for special educational needs (3.13 of The Code)

- 2.7 Where an admission authority receives an in-year application and it does not wish to admit the child because it has good reason to believe that the child may display challenging behaviour, even though there are places available, may refuse admission and refer the child to the Fair Access Protocol. An admission authority should only rely on provision (3.10 of The Code) if it has a particularly high proportion of either children with challenging behaviour or previously permanently excluded children on roll compared to other local schools and it considers that admitting another child with challenging behaviour would prejudice the provision of efficient education or the efficient use of resources. **This provision will not apply to a looked after child, a previously looked after child or a child with an Education, Health and Care Plan naming the school in question, as these children must be admitted** (3.12 of The Code).

For parents

- 2.8 Parents have a legal responsibility to ensure that all their children of compulsory school age are receiving a suitable education ([Section 7, Education Act 1996](#)).
- 2.9 Parents can express a preference for the schools they wish their child to be considered for, but if their child is allocated a place under the Fair Access Protocol, there is no duty to comply with parental preference (3.19 of The Code). However, parental wishes will be taken into account in making allocations where possible.

3 Children eligible to be considered under the Fair Access Protocol

- 3.1 The Protocol applies to the following children of statutory school age, who are living in Havering (with the exception of UK service personnel as covered by 2.21 of The Code) and having difficulty in securing a school place in year.
- 3.2 The eligibility below is strictly in accordance with The Code. When eligibility occurs, the placement of the child will be considered by the Fair Access Panel as follows:
- 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 The Code.

- k) Children for whom a place has not been sought due to exceptional circumstances
 - 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 place.
- 3.3 Where a child is considered eligible for the Fair Access Protocol, a school place must be allocated for that child within 20 school days. Once they have been allocated a school place via the FAP, they should be placed on roll within 10 school days.
- 3.4 Parents continue to have the right of appeal to any school they have applied for and have been refused.

4 Children with Challenging Behaviour

Definition of “Challenging Behaviour”

- 4.1 Behaviour can be described as challenging where it would be unlikely to be responsive to the usual range of interventions to help prevent and address pupil misbehaviour or it is of such severity, frequency, or duration that it is beyond the normal range that schools can tolerate. We would expect this behaviour to significantly interfere with the pupil’s/other pupils’

The Code also states:

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

- Admission authorities must not refuse to admit a child thought to be potentially disruptive, or likely to exhibit challenging behaviour, on the grounds that the child is first to be assessed for special educational needs.
- Where a school is made aware that the last education provision of a child was a PRU or Alternative Provision due to a permanent exclusion, the Panel may identify an alternative provision as the most appropriate outcome.

5 Operating Principles and Arrangements of the Fair Access Panel

The role of the Panel

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

- Ensure they are operating in accordance with The Code
- Ensure the operation of the Protocol is fair and transparent and includes representatives of mainstream schools in the decision-making process
- Determine the school to be asked to admit a child in all categories of children covered by the Protocol

Constitution

5.2 The Panel will be made up of:

Primary Fair Access Panel

- 3 Senior Local Authority representatives, one of whom will chair the panel
- 6 Head Teachers on a rotational basis (see Appendix 1)

Schools will be split into 10 groups of 6 – ensuring that the location of schools is considered between each group.

Secondary Fair Access Panel

- 3 Senior Local Authority representatives, one of whom will chair the panel
- 18 Secondary school delegates (all Secondary Schools)

5.3 For both primary and secondary meetings to be quorate, at least 5 Head Teachers / delegates shall be present.

5.4 Both primary and secondary panels shall meet at least monthly (unless there are no cases to be heard). These meetings will be held virtually (over Microsoft Teams) unless there is a specific request to meet in person (see Appendix 2 for dates).

5.5 Alongside the panel there will be an independent clerk who will take minutes of the meeting but will take no part in the decision making process. Minutes of meetings will be distributed to all schools within 10 school days of the Panel meeting.

Preparing the referrals

5.6 Where children fall within the Protocol they will be referred to the Panel, to identify a suitable school placement.

- 5.7 Once a child has been identified, the local authority will collate referral notes for each child and present the case at the next available Panel.
- 5.8 The referral spreadsheet for both primary and secondary children will consist of the following information to assist the Panels decisions about placements:
- The child's date of birth and year group
 - Names of the school closest to the child's home address together with the schools named by the parents. Parental preferences will be considered by the Panel but will not override the final decision.
 - The closest school to the home address with a vacancy and the walking distance
 - Information relating to which school's any siblings attend or have been offered. Whilst there is a preference for children to attend the same school where possible, the Panel may place children at different schools.
 - Details of any information the parent has provided the local authority, such as SEND needs, EAL and Social Care Involvement.
- 5.9 Other information provided to the Panel will include:
- The total number of children previously admitted via the Protocol at each Havering school in the academic year, by year group.
 - Number of children on roll and total capacity in the relevant year group
 - Vulnerability data for each school
- 5.10 All information will be circulated to the Panel at least 48hrs before scheduled meetings.

Decisions of the Panel

- 5.11 The Panel will ensure that no school is asked to admit a disproportionate number of unplaced children with challenging behaviour and will not expect a school to automatically take another child with challenging behaviour in place of a child excluded from school (3.14 The Code).
- 5.12 The Panel will allocate children to both over and under-subscribed schools on a fair, equitable and consistent basis. Schools are expected to admit children allocated by the Panel within 10 school days.
- 5.13 The Panel will consider the following information when placing children:
- Where a child is refused admission based on challenging behaviour, the refusal letter will be shared. The Panel must decide if the refusing school has demonstrated reasons why they are unable to admit. Any information provided by a school to support their decision not to admit (such as number of Looked After Children, children with an EHCP / SEND or total number of children admitted through normal admissions processes) will be cross checked and verified by the local authority.
 - An equal distribution by number to each school, as far as possible over the course of the year.
 - The distance from the home address to the school.

- 5.14 The Panel's decisions will be communicated to the parent and schools securely and electronically by the local authority within 2 school days of the Panel meeting. The named school must arrange for an admission meeting and start date within 10 school days of the Panel's decision.

Infant Class Limit

- 5.15 Under [the School Admissions \(Infant Class Size\) Regulations 2012](#), infant classes must not contain more than 30 pupils with a single school teacher, but additional children can be admitted under limited circumstances. Such children will be "excepted pupils" for the time they are in an infant class or until the class numbers fall back below 30. **Excepted pupils include children where there is no other available school within reasonable distance.**

School Refusing to Admit Children

- 5.16 Given that the Panel will have considered the parent's application and the school's circumstances in accordance with the agreed Protocol, it is expected that the allocated school will admit the child without delay.
- 5.17 In the event that an admission authority has failed to admit a child in accordance with the Protocol, they may be directed to do so. The local authority has the power to direct the governing body of a maintained school for which they are not the admission authority to admit a child in their area even when the school is full (3.23 to 3.25 of The Code).
- 5.18 Where a local authority considers that an academy will best meet the needs of any child, it can ask the Secretary of State to intervene. The Secretary of State has the power to direct the admission of any child to any academy under the academy's funding agreement (3.29 of The Code).

6 Monitoring Arrangements

- 6.1 Statistics will be maintained by the local authority on the numbers and categories of children admitted under the Protocol and the schools and alternative provision to which they have been admitted.
- 6.2 The effectiveness of the Protocol and the number of children admitted will be included as part of the annual local authority report to the Office of School Adjudicators (OSA).
- 6.3 This Protocol has been subject to consultation with all Havering Head Teachers and will be reviewed on an annual basis.
- 6.4 In the event that the majority of schools can no longer support the principles and approach of the Protocol (for example, if they believe it is not operating fairly or effectively), they may request that it is reviewed by speaking with Head of School Provision. The existing Protocol will remain binding on all schools until a new one is agreed.

Appendix 1

Primary FAP Groups:

Primary 1

Benhurst Primary
Brady Primary
Branfil Primary
Broadford Primary
Concordia Academy
Crownfield Infant

Primary 2

Ardleigh Green Infant
Crowlands Primary
Crownfield Junior
Drapers' Brookside Infant & Junior
Engayne Primary
La Salette Catholic Primary

Primary 3

Dame Tipping CofE Primary
Drapers' Pyrgo Priory
Elm Park Primary
Gidea Park Primary
Hacton Primary
Newtons Primary

Primary 4

Hilldene Primary
Hylands Primary
Parsonage Farm Primary
Rise Park Infant
Scotts Primary
St Joseph's Catholic Primary

Primary 5

Langtons Infant
Rise Park Junior
St Edward's CofE Primary
St Ursula's Catholic Primary
Suttons Primary
The James Oglethorpe Primary

Primary 6

Harrow Lodge Primary
Mead Primary
St Alban's Catholic Primary
St Patrick's Catholic Primary
The Mawney Foundation
Upminster Junior

Primary 7

Ardleigh Green Junior
Drapers' Maylands Primary
Rainham Village Primary
St Peter's Catholic Primary
The R J Mitchell Primary
Upminster Infant School

Primary 8

Clockhouse Primary
Harold Court Primary
Langtons Junior Academy
Nelmes Primary
Oasis Academy Pinewood
Scargill Infant

Primary 9

Drapers' Pyrgo Priory
Parklands Primary
Squirrels Heath Infant
St Mary's Catholic Primary
Towers Infant
Whybridge Junior

Primary 10

Harold Wood Primary
Scargill Junior
Squirrels Heath Junior
The James Oglethorpe Primary
Towers Junior
Whybridge Infant

Appendix 2

Fair Access Panel Dates

Primary

Thursdays at 10:00am - 11:30am

Date	Primary Group
12 September 2024	1
26 September 2024	2
10 October 2024	3
17 October 2024	4
07 November 2024	5
21 November 2024	6
05 December 2024	7
19 December 2024	8
16 January 2025	9
30 January 2025	10
13 February 2025	1
06 March 2025	2
20 March 2025	3
03 April 2025	4
01 May 2025	5
15 May 2025	6
05 June 2025	7
19 June 2025	8
03 July 2025	9
17 July 2025	10

Secondary

Tuesdays 8:15am - 9:45am

Date
11 September 2024
15 October 2024
27 November 2024
18 December 2024
22 January 2025
12 February 2025
19 March 2025
23 April 2025
14 May 2025
18 June 2025
16 July 2025