



Hull Fair Access Protocol

Fair Access Protocol's Terms of Reference

Hull's Fair Access Protocol (FAP) is testament to the excellent and effective partnership work between local schools and the local authority to maximise the life chances and choices for local children and young people.

Hull's Fair Access Protocol reflects the LA's responsibility for safeguarding and promoting the welfare of children and young people and their educational attainment

1. Introduction

Every local authority must have a Fair Access Protocol, agreed with the majority of its schools, in which all schools (including academies) must participate.

FAP's Terms of Reference are guided by the School Admissions Code 2014 which clearly states that all admission authorities **must** comply with the mandatory requirements of the Code and admissions legislation. All schools and academies **must** participate in the local authority's Fair Access Protocol in order to ensure that unplaced young people, who live in the local authority, especially the most vulnerable, are offered a place within suitable provision as quickly as possible. This includes admitting children and young people above the published admission number to schools that are already full, where appropriate.

All schools, including academies, are expected to respond to requests by local authorities to admit a child under Fair Access Protocols within seven calendar days.

The needs of children and young people with an EHCP are not included in this protocol as their needs are considered separately by the local authority SEN panel. The protocol will not apply to children who are looked after by the local authority (or who previously been looked after and are since adopted) or have a child arrangement order (formerly residence order) or a special guardianship order.

For those pupils who have been unable to secure a school place, FAP will meet on a monthly basis and be chaired by a head teacher or the local authority commissioner.

The protocol will begin on 7th January 2019 and be reviewed prior to the start of an academic year.

Throughout this document 'school' should be read as including academies and free schools in the city.

Pupil Data

If a child has been on a school roll within the last six months, the Admissions Team will approach the school to obtain pupil information. All schools are expected to co-operate fully and supply accurate and timely information within five working days. Schools not supplying information within this agreed timescale will be reported to the FAP Chair.

Information gleaned from out of county schools is often limited; It is the responsibility of schools to obtain further information, over and above that provided by the LA, if they feel that additional information is required. Data relating to performance, behaviour or attendance should not be used to refuse a school place prior to being brought to the FAP. Any refusal of a place due to behaviour should be referred to the FAP with information from the school supporting the reasons for the refusal.

For pupils returning from Elected Home Education, the Admissions Team will provide a copy of the letter stating their intention to home educate and record of home visit (where one has taken place). Pupils wishing to return after a period of less than 6 months from the date they became EHE, will automatically return to their host school, unless extenuating circumstances exist which make this untenable (Safeguarding/moved house etc.)

Schools will be sent every IYT application and school data. A School can agree to offer a place to a pupil under fair access protocols and request that the decision be recorded on the next agenda. Alternatively the school should notify the admission team if they want to refer an application to the fair access panel together with the reason for the referral.

Data will be circulated (using EDT) one week prior to each meeting to ensure a fair and transparent process. To adhere to timescales, information provided by agencies, parents or 3rd parties will not be scrutinised prior to circulation. Late applications will not be added to the transfer group.

Local authorities are required to submit an annual report to the Schools Adjudicator that outlines an assessment of the operation of the FAP, its effectiveness and a statement about how well the FAP has worked and how many young people have been admitted to each school in the local authority. This report is submitted by the end of June each year.

Principles of the in-year Fair Access Panel (IYFAP)

- (a) The majority of young people requiring a school place in-year will continue to be admitted to a school in accordance with the usual in-year admission procedures, rather than IYFAP.
- (b) It is essential to the success of IYFAP that all schools agree to the aims, principles and procedures and give their fullest support.
- (c) All schools are open to IYFAP allocations regardless of whether a head teacher

attends or does not attend the panel. Adopting this principle will contribute to the equity of the allocation of placements across all schools.

- (d) Decisions will be made fairly, consistently and transparently in the best interests of the young person's educational needs, the considered allocated school and in accordance with Children Act 2004, Education and Inspections Act 2006, the Education and Skills Act 2008 and the School Admissions Code 2014.
- (e) Access to education following IYFAP allocation should be secured within agreed timescales both at the point of entry and exit from provisions. This applies not only to mainstream school placements but alternative provision (AP) settings.
- (f) Decisions will be reached by consensus whenever possible; however in a case where FAP cannot reach a decision the LA will provide direction.
- (g) No school should be asked to take a disproportionate number of pupils who have either been excluded from other schools, or who have been considered at IYFAP because they are viewed as being hard to place. A running tally of all FAP allocations will be circulated monthly.
- (h) All schools recognise their collective responsibility for all pupils and will work collaboratively to manage pupils with challenging behaviour, involving multi-agency support, accessed where appropriate. All members will work together to secure commitment to the inclusion agenda and to reduce exclusion from schools.
- (i) Recognise the success of proactive work being undertaken cooperatively by schools to prevent exclusion and to support young people.
- (j) Schools will contact the Schools Partnership Manager, prior to considering a permanent exclusion, to explore possible alternatives.
- (k) All schools will have a clear and transparent policy regarding Managed Moves to reduce the risk of both fixed and permanent exclusions.
- (l) Parents will be given prior information about a decision to refer a pupil to IYFAP. Wherever possible, parent's views will be considered, **but will not override the protocol if the recommended school is not in a position to admit the young person.**
- (m) Parents will be guided to the process of appeal if the preferred school/s on an in-year admission application is not met as an outcome of IYFAP deliberation/allocation.
- (n) Places can be allocated by IYFAP to a school where the pupil has been previously denied a place at appeal if the school is identified as the most appropriate setting for the pupil.

- (o) Where a pupil is not currently on a school roll the panel can allocate a place before a lodged appeal is heard to ensure that pupils are placed back in to education as quickly as possible.
- (p) A parent can apply for a school place at any time on an in-year application form and it must be processed. Young people who are not on the roll of a Hull school and are considered to be hard to place will be referred to and allocated the most appropriate education provision by IYFAP. This is likely to be in a mainstream school unless there are legitimate reasons for refusing an application when places are available in a year group. It is anticipated that a mainstream placement will be the main allocated pathway. Children with English as a second language will not be considered hard to place.

This protocol will be reviewed on an annual basis by the local authority, in conjunction with partners. This is required in order to assess its effectiveness in ensuring that unplaced children are being allocated places at schools/academies or in alternative educational provision on an equitable basis.

School Admissions Code 2014. Legislation and Fair Access Protocols

Fair Access Protocols are mandatory and protocols **must** include, as a minimum, children of compulsory school age **who have difficulty in securing a school place** in the following categories: (See paragraph 3.15 of the School Admissions Code.)

- Children from the criminal justice system or Pupil Referral Units who need to be reintegrated into mainstream education;
- Children who have been out of education for two months or more;
- Children of Gypsies, Roma, Travellers, refugees and asylum seekers whom have been out of education for more than 2 months
- Children who are homeless;
- Children with unsupportive family backgrounds for whom a place has not been sought;
- Children who are carers; and
- Children with special educational needs, disabilities or medical conditions (but without a statement or Education, Health and Care plan).

FAP will also include the following children of compulsory school age:

- New arrivals in late year 10 and year 11, unless the parent has secured a mainstream school (includes both late arrivals to Hull and into the UK).
- Children who are electively home educated (EHE) for **more than 6 months** whose parents elect for them to return to mainstream education. Children who are electively home educated for less than 6 months who have not secured a school place at their

preferred school(s) will be brought to the panel and will automatically be referred back to their home school by the IYFAP (unless safeguarding concerns exist).

Within the terms of this protocol placement decisions may result in the admission of children above a school's published admission number. Schools cannot cite oversubscription as a reason for not admitting a young person under the Fair Access Protocol. The School Admissions Code requires that those children allocated a place at a school/academy in accordance with a Fair Access Protocol must take precedence over those on a waiting list.

Schools **must** respond quickly to requests for admission so that the admission of the child is not delayed. Admission should take place within 10 school days of a school being notified of a decision under the Fair Access Protocol.

If a school refuses to admit a pupil under the terms of the Fair Access Protocol, one of the following actions will be taken:

- (a) for a direction letter to be issued by the LA to the school; or
- (b) seek a direction from the Secretary of State for an academy.

Where the local authority considers that an academy will best meet the needs of a child, it will ask the academy to admit that child. It is anticipated that the local authority and the academy concerned will usually come to an agreement, but if the academy refuses to admit the child, the local authority may ask the Secretary of State to intervene. The Secretary of State has the 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.

Children with challenging behaviour and those who have been permanently excluded twice

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 children who were below compulsory school age at the time of either exclusion, or children who have been re-instated following a permanent exclusion.

Where a school does not wish to admit a child with challenging behaviour outside the normal admission round, even though places are available, it must refer the case to the Schools Admissions Team for action under the Fair Access Protocol. This will only be appropriate where a school has a particularly high proportion of children with challenging behaviour or previously excluded children. This provision will not apply to looked after children, a previously looked after child, or a child with an EHC plan, naming the school in question, as these children must be admitted. 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 an EHC plan.

Chair's Action between IYFAP meetings

Only in exceptional circumstances will the Chair be required to take decisions outside of IYFAP. An example of this would be if further information came to light regarding a pupil, which would have a negative impact on the placing of a pupil within a particular setting. The LA reserves the right to change a FAP decision when it is in the best interest of the child concerned. The Chair of FAP will be informed of any changes by the LA.

Managed Moves

IYFAP will consider requests for Managed Moves (managed transfers) between schools and will progress the procedure on the condition that the suggested move will have a positive impact on the pupil's progress and inclusion in a mainstream setting where appropriate. Schools are encouraged to arrange managed moves outside of the FAP process. All managed moves will be recorded by the Chair

DfE issued guidance (July 2012) titled "*Exclusion from maintained schools, academies and pupil referral units in England*", provides statutory guidance on factors that a head teacher should take into account before taking the decision to exclude. A pupil can also transfer to another school as part of a 'managed move' where this occurs with the consent of the parties involved, including the parents. However, the threat of exclusion must never be used to influence parents to remove their child from the school.

A Managed Move to another school is an option to enable the young person to have a fresh start in a new school.

By consideration of a Managed Move, the head teacher/principal recognises that there has been a serious breach of behaviour policy within the school and that all support mechanisms to improve behaviour have been exhausted but is looking for an outcome other than a permanent exclusion.

The process would then require the headteacher/principal of the referring school to refer the case for consideration by IYFAP after consultation with the parent. The headteacher/principal would need to provide information that there had been a serious breach of behaviour policy within the school/academy and that all support mechanisms to improve behaviour had been exhausted. The Admissions Team is not responsible for obtaining information in order to facilitate a managed move.

Parents/carers should never be pressured into removing their child from school under threat of permanent exclusion or prosecution, nor should pupil's names be deleted from the school roll on disciplinary grounds unless the formal exclusion procedures set out in statute and the July 2012 exclusion guidance have been adhered to or unless a Managed Move has been agreed by all relevant parties.

A Managed Move should be reviewed after 6 weeks of the transfer starting. A clear deadline needs to be set to determine the success of the Managed Move – the maximum placement should be 12 weeks.

A Managed Move should be viewed as a trial placement. It is recommended that for the duration of the trial period the referring school maintains the enrolment status of 'M' (main dual-registration). The receiving school has an enrolment status of 'S' (subsidiary dual-registration).

Pupils should remain on the roll of the referring school for the duration of the managed move.

In the event that the managed move is not successful then the pupil will return to the host school. A failed managed move should not result in an automatic placement at an AP setting.

Where an IY transfer has been requested by a parent a school place should be allocated.

A final decision should be made by the receiving school at a formal review at the end of the trial period as to the permanency of the transfer. Either the pupil will transfer on to the roll of the receiving school or will return to the original school (if appropriate) or the case will return to the IYFAP for a case review/update.

All schools should act in the spirit of partnership and co-operate for Managed Move arrangements to be given the best chance to work.

FAP in relation to alternative provision (AP), and Day 6 provision for permanently excluded pupils

Currently AP settings are the designated base for permanently excluded pupils. Headteachers are asked to complete the IYFAP referral form at the point of the exclusion in order that the Local Authority commissioner is provided with the fullest information on the young person to facilitate entry into the Day 6 provision. A mainstream setting should not be ruled out.

IYFAP and criteria for selection of receiving school

It is important that all schools are asked to admit an equitable number of pupils under the protocol. The decision should be mindful of, but not restricted to the following factors, as well as taking account of professional advice from the referring school and appropriate professionals:

- Specific issues in relation to the individual case
- Parental preference
- Geographical proximity
- Distance factor.

Process for referrals being brought to IYFAP by alternative provision settings requesting mainstream schools

- (1) AP settings should present paperwork to the Admissions Team by the FAP deadline and notify the parent that the referral is being made.
- (2) AP will complete a Pupil Passport to evidence what strategies have been applied and associated outcomes. If a mainstream head teacher is considering objecting to allocation, evidence must be presented at FAP to show that the concerns they have are greater than those which may be presented at any other school.
- (3) AP setting presents case at FAP.
- (4) IYFAP allocates pupil to mainstream pathway or pupil returns to AP setting and parents/carers informed within 5 working days of decision.
- (5) Roll status at AP setting remains 'M' (main registration) whilst the allocated school is the 'S' (subsidiary dual registration) during integration/trial placement.
- (6) There is an expectation of a maximum seven day turn around period from IYFAP decision to pupil attending the allocated mainstream setting.

All Year 6 pupils should apply for a mainstream place. However, a limited number of Year 6 pupils attending the AP during the summer term may not be ready to take up allocated secondary placement. These cases need to be presented to primary IYFAP for notification and to secondary IYFAP for allocation to an AP KS3 provision. Integration into mainstream settings will take place at the appropriate time case specific from the AP KS3 base. The Admissions Team must be advised if the mainstream place is to be withdrawn so that it may be allocated to another pupil.