

# LEWISHAM FAIR ACCESS PROTOCOL – PRIMARY



## 1. Introduction

The Lewisham Fair Access Protocol is based on the requirements of the School Admissions Code, December 2014 and regulations relating to children missing from education. It takes account of the particular circumstances relating to primary schools in Lewisham and builds on good practice.

Local authorities have a duty to ensure that each student in its area can secure access to education. A Fair Access Protocol supports the local authority in this duty, and provides an equitable system for the allocation of school places outside the normal admissions round. Students in Lewisham are placed under the Fair Access Protocol by the Fair Access Panel.

Admission authorities **must not** refuse to admit students in the normal admissions round on the basis of their **poor behaviour** elsewhere. [Code 3.8]

Admission authorities **must not** refuse to admit a student 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. [Code 3.8]

The operation of Fair Access Protocols is outside the arrangements of coordination and is triggered when a parent of an eligible student has not secured a school place under in year admission procedures. [Code 3.10]

There is no duty for local authorities or admission authorities to comply with parental preference when allocating places through the Fair Access Protocol however in Lewisham the panel does take this into account. [Code 3.11]

The Fair Access Protocol will not apply to a child looked after, a previously child looked after or a student with an EHCP naming the school in question, as these students must be admitted through the process set out in the SEN Code of Practice.2.

### **The law relating to Fair Access Protocol Section 3.9 of the School Admission Code and**

- Each local authority **must** have a Fair Access Protocol, agreed with the majority of schools in its area to ensure that – outside the normal admissions round - unplaced students, especially the most vulnerable, are offered a place at a suitable school, as quickly as possible. [Code 3.9]
- 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 students who have been excluded from other schools, or who have challenging behaviour. [Code 3.9]
- The protocol **must** include how the local authority will use provision to ensure that the needs of students who are not ready for mainstream schooling are met. [Code 3.9]
- All admission authorities **must** participate in the Fair Access Protocol in order to ensure that unplaced students are allocated a school place quickly.
- A Fair Access Protocol **must not** require a school automatically to take another student with challenging behaviour in the place of a student excluded from the school. [Code 3.14]
- Where a governing body does not wish to admit a student 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<sup>1</sup>. **This will normally only be appropriate where a school has a particularly high proportion of students with challenging behaviour or previously excluded students.**

**Where a student 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<sup>2</sup>.** The twice excluded rule does not apply to students who were below compulsory school age at the time of the exclusion, students who have been re-instated following a permanent exclusion (or would have been had it been practicable to do so)<sup>3</sup>, and students with an EHCPs.

### **3. Principles and criteria for admission under the Fair Access Protocol**

- Primary schools will continue to admit students who apply for a vacancy under in year admission coordinated arrangements.
- Primary schools cannot cite going over Planned Admissions Number as a reason for not admitting a student once they are classified as qualifying for admission under the Fair Access Protocol, with the exception of infant class size legislation).
- Fair Access students will be given priority for admission over others on a waiting list or awaiting an appeal.
- Primary schools must not refuse to admit a student who has been denied a place at that school at appeal, if the Fair Access Panel identifies that school as the one to admit the student.
- Where an applicant expresses a strong aversion to or desire for the religious ethos of a school, this will be taken into consideration. Where possible, Lewisham will refer active church members to the appropriate denominational school but this cannot be guaranteed.
- Where an Fair Access admission is delayed beyond 10 school days the local authority will provide education provision in the interim and on a case by case basis.
- Decisions to recommend placement at a particular school will take into account determining factors such as that school's organisational and structural factors. These will include the Published Admission Number (PAN), the number currently on roll in that year group, whether there would be an impact on the delivery of the National Curriculum and constraints involving the school site, such as building work; however there maybe other factors considered.

3.1 The Fair Access Panel will decide which school should be required to admit a student using the following criteria:

- The closest school to the student's permanent home address. Distance will be measured in a straight line from the student's home address to a central point within the school premises.
- However, in identifying an appropriate school or education provision, the Panel's consideration will be focused on the educational needs of the student.

### **4. Purpose of the Fair Access Protocol**

All Lewisham primary schools, including those that are their own admission authority e.g. faith schools and academies, are required to adhere to the requirements of this protocol. Lewisham's Fair Access Protocol is designed to:

---

<sup>1</sup> Where in the case of an Academy it cannot agree with the local authority over admitting a child, only the Secretary of State can direct the Academy to admit the child.

<sup>2</sup> Section 87 of the SSFA 1998.

<sup>3</sup> Following changes made to the exclusions review framework (Section 51A of the Education Act 2002 will be inserted by Section 4 of the Education Act 2011), in addition to these exceptions, the twice excluded rule will also not apply where, following a permanent exclusion, a review panel has quashed a decision of a governing body not to reinstate a pupil.

- Respond to the needs of vulnerable students who are not on the roll of any school, placing them in education provision quickly and without delay, taking account of their specific needs.
- Aim to place them in education provision quickly so that students are on roll within 10 school days of the Fair Access Panel meeting.
- Provide a fair, equitable and open allocation of school places, particularly for students who may present challenging behaviour.
- Be fair and transparent, to have the confidence of all primary mainstream schools and to include representatives of those schools in the decision making process.
- Ensure no primary school or academy – including those with vacancies – is asked to take a disproportionate number of students who have been excluded from school, or have challenging behaviour.
- Information is held by the local authority and Fair Access Team is taken into consideration, such as:
  - Number of students on roll
  - Number of exclusions (PEX and FTEs) and reintegrations through FAP
  - Number of Managed Moves
  - Number of in year admissions
  - Number of part time timetables
  - The vulnerable year groups
  - Percentage of children with EHCPs and SEND support
  - Percentage of children with ‘challenging behaviour’ in the year group
- Reduce the time all students and particularly vulnerable students spend out of education.
- Strengthen and develop the existing admissions arrangements and procedures, taking into account the local authority’s role in coordinating those in year admissions to school.

## 5. The scope of admissions under the Fair Access Protocol

5.1 The School Admissions Code, December 2014 list children to be included in a Fair Access Protocol include the following children of compulsory school age who have difficulty securing a school place:

- a) Students from the criminal justice system or Pupil Referral Units who need to be reintegrated into mainstream education;
- b) Students who have been out of education for two months or more;<sup>4</sup>
- c) Students of Gypsies, Roma, Travellers, refugees and asylum seekers;
- d) Students who are homeless;
- e) Students with unsupportive family backgrounds for whom a place has not been sought;
- f) Students who are carers; and
- g) Students with special educational needs, disabilities or medical conditions (but without an Education, Health and Care Plan).

## 5.2 Children categorised as being ‘challenging’ or ‘vulnerable’

Lewisham local authority and primary schools have locally agreed to include the following children who are categorised as ‘**challenging**’ or ‘**vulnerable**’ to be considered under the Fair Access arrangements It is advisable to ensure full and informed parental consent before these cases are referred to Fair Access:

- a) Students who attend Alternative Provision and are ready to return to a mainstream school.
- b) Students with known behavioural problems resulting in a significant number of fixed term exclusions or who are at risk of permanent exclusion.

---

<sup>4</sup> Not on the roll of a school.

- c) Students being educated off-site to improve behaviour.
- d) Students who have been permanently excluded.
- e) Students who have a disproportionate number of in year transfers within a phase (two or more).
- f) Students known to other agencies and who may present a serious safeguarding concern.
- g) Students without a school place and with a history of serious attendance problems and / or for whom the local authority is pursuing a School Attendance order with parents.
- h) Students who have been victims of severe bullying or harassment (as supported by current school) and require an urgent transfer.
- i) Students who has been placed in school under the in year admissions arrangements and where the receiving school has identified difficulties which had not previously been disclosed.
- j) Students who have returned to the borough (expectation is that these students are referred to their previous school who either readmit or make a referral to the Fair Access Protocol for an alternative school place.
- k) Students whose parents have been unable to find them a place after moving to the borough, because of a shortage of places.
- l) Students withdrawn from schools by their family and who are unable to find another place (up to two academic years).
- m) Students of UK service personnel and other crown servants.

5.3 If a student's former / current school is in the UK / Republic of Ireland, the school will be asked to complete the section 9 of the Lewisham application form. On receipt of this, and if it is clear that the student presents fair access indicators set out in 5.2, the student should be considered under the Fair Access Protocol. If it transpired later that the section 9 part of the application form is inaccurate or misleading this will be taken up by the school concerned.

5.4 Students who are not resident in Lewisham, who present Fair Access indicators set out in 5.2 will be referred to Fair Access Panel with the view that the student should be considered by their home authority's Fair Access Protocol.

5.5 For students who present a Fair Access indicator under section 5.2 the Fair Access Panel will use the Lewisham Assessment Hub to ensure that the needs of students who are not ready for mainstream schooling are met.

#### 5.6 **Non- statutory advice**

Once a child has been admitted to a school it is for the headteacher to decide how best to educate them. In some cases it may be appropriate for a child who has been admitted out of their normal age group to be moved to their normal age group, but in others it will not. Any decision to move a child to a different age group should be based on sound educational reasons and made by the headteacher in consultation with the parents.

## 6. **Operational Processes under the Fair Access Panel**

### 6.1 **Fair Access Panel referrals:** [FAPLewisham@lewisham.gov.uk](mailto:FAPLewisham@lewisham.gov.uk)

- The person responsible for referring a student to Fair Access Panel will need to include copies of all paperwork including the Fair Access Panel Referral form, and ensure that they are completed comprehensively.

- If local authority officers feel that there is insufficient evidence to make a fair and appropriate Fair Access referral in the submission, the referrer will be advised and the student will not be included on the Fair Access Panel agenda.
- Minutes of the previous meeting, **progress updates on students placed through Fair Access Panel** and profiles for each student to be considered for placement will be circulated to all panel members at least three days before the meeting.

6.2 **At every meeting the panel members will be provided with data showing the placement of vulnerable student previously placed at each school.**

6.3 **Membership** (reviewed annually)

**The Fair Access Panel** is chaired by the Head of Access, Inclusion and Participation. Members for Primary FAP include representatives from Heads/Deputies or Assistant Heads from a Lewisham primary schools, local authority officers from relevant services. Current membership is as follows:

**Primary Schools:**

- Headteacher, Beecroft School
- Headteacher, Edmund Waller School
- Headteacher, Holy Cross School
- Headteacher, Horniman School
- Headteacher, Marvels Lane School
- Headteacher, Myatt Garden School
- Headteacher, Sandhurst School
- Headteacher, St Michael's CoE School
- Headteacher, St Saviour's RC School
- Headteacher, St William of York School

**Local Authority:**

- Safeguarding and Inclusion Team
- Fair Access and Admissions Team
- Attendance Team
- Inclusion and Reintegration Officer
- Children's Social Care
- Educational Psychologist / SEN
- Lewisham Virtual School

6.4 **Terms of Reference**

The Primary Fair Access Panel will convene every six weeks in term time or twice each half term.

- The membership of the Fair Access Panel and the appointments of Panel members is regularly reviewed (at least annually) by the Head of the Access, Inclusion & Participation.
- The Fair Access Panel is responsible for having regard to the scope, principles and processes of the Fair Access Policy and Protocols, accepting and tracking referrals, and identifying for each case referred an appropriate mainstream school or alternative education provider.
- Based on the information from schools, relevant professionals, parents and students, and in the light of provision available, the Fair Access Panel agrees either a referral to appropriate provision, or appropriate action.
- Meetings proceed in accordance with the Council's Code of Conduct, and decision is reached by a consensus (general or widespread agreement) sought among the whole

membership. In some cases further meetings and/or further information may be required to achieve consensus.

- The Fair Access Panel members can acquire information that has not been made public. As such, Panel members should never disclose or use confidential information for personal advantage or for the advantage of anyone known to them, or to the disadvantage of the Panel or anyone else.
- For meetings to be valid and quorate there must be at least **four** headteacher panel members present.
- The Fair Access Panel can:
  - Direct students to mainstream schools.
  - Support the referral of students within the agreed criteria to alternative education provision.
  - Agree the reintegration of permanently excluded students into mainstream school
  - Refer students returning from custodial care to alternative education provision for assessment, and to a named school for admission.
  - Agree action to be taken forward by a named officer.
  - Arrange a one-off home visit by an Attendance Officer.
  - Ensure, where appropriate, that links are made to Children's Social Care Services.
  - Agree to the implementation of School Attendance Order Proceedings
  - Escalate any concerns to senior officers (eg conduct of a service, school, professional etc).

#### 6.5 **Chairs Action**

The Chair may be required to take decisions outside of Fair Access Panel throughout the course of the academic year. These cases will be considered on an emergency basis or to expedite cases with a delay of more than 20 days and will require ratification and minuting at the next appropriate panel meeting.

#### 7. **Appeals by schools referred to Fair Access Panel**

If the school has genuine concerns once a student is admitted, for example a 'disproportionate number of students with challenging behaviour', the school may appeal against the decision and must contact the local authority within five school days in writing, clearly outlining the reasons why the student should not be admitted.

The local authority will consider the appeal under Fair Access, taking into account any genuine concerns about the admission (for example a previous serious breakdown in the relationship between the school and the family) and will determine whether to:

- pursue the original placement; or
- accept the school's rationale for not admitting the student and possibly agree an alternative.

'Disproportionality' can be evidenced by information provided by the school in the appeal or on the 'vulnerability sheet' and which can include:

- Number of students on roll and in the year group
- The vulnerable year groups
- Number of in year admissions
- Number of exclusions (PEX and FTEs)
- Number of cases or reintegrations through FAP
- Number of Managed Moves
- Number of part time timetables
- Percentage of children with EHCPs and SEND support
- Percentage of children with 'challenging behaviour' in the year group

- 7.1 **Where a school feels that they cannot meet the needs of a student who has been admitted by the local authority:**
- Schools must communicate in writing to the inbox: [FAPLewisham@lewisham.gov.uk](mailto:FAPLewisham@lewisham.gov.uk)
  - Provide compelling evidence as to why the school cannot meet the student's needs.
  - This must be within five school days.
  - The school must inform parents and gain parental consent of referral to Fair Access Panel.
  - The Chair of the Fair Access Panel will consider if the case is sufficient to be heard by the Panel.

## 8. **Admissions outside the scope of the Fair Access Protocol**

The majority of school admissions are outside of Lewisham's Fair Access Protocol Arrangements.

### 8.1 **In year admissions**

The majority of in year admissions from reception to Year 11 are covered by the Reception or Secondary transfer schemes. In most cases the admissions process is straightforward. The parent arrives in the area, applies for a place in a school where there is a vacancy and the student is admitted to school (see flowchart A).

All applicants are required to complete an In Year Common Application Form (online - Enrol) and return it direct to the local authority; participating schools must not accept direct applications. The Admissions Team will determine, based on the details supplied with the application, whether the student qualifies for admission as In Year or Fair Access and either refer the case direct to the school applied for or to the Pre Fair Access Caseworker.

**Further information about the in year admissions process can be found on the website at:**  
<https://lewisham.gov.uk/myservices/education/schools/school-admission/how-to-transfer-your-child-to-a-different-school-during-a-school-year>

### 8.2 **In year transfers between schools**

Students who request a transfer from their current school in Lewisham and who have completed an In Year Common Application Form do not take priority over those who qualify under the Fair Access or in year admissions arrangements as detailed below.

Primary schools – the receiving school will arrange admission for the start of the next half term or sooner if there are compelling reasons to do so earlier. Students who have not moved address and transferred to two or more schools should be notified to the local authority as a safeguarding case which would be communicated to other local authority departments.

Lewisham's In Year Common Application Form requests for information about the student to be completed by the current Headteacher. This will include information about the student's attendance, behaviour and other interventions. This information will assist the local authority in determining whether the application is to be dealt with under the Fair Access Protocol.

### 8.3 **Students with statements of special educational needs (SEN) or an Education Health Care Plan (EHCP)**

Admission of students with an EHCP are not covered by these arrangements, as there are different legislative requirements relating to their school placement.

- 8.4 Students who move into Lewisham who were attending a Pupil Referral Unit (PRU) directly prior to their move will be transferred to Lewisham's PRU. This will enable Lewisham's PRU to continue any assessments and, when there is sufficient evidence to demonstrate the student is ready for mainstream education, a referral will be made to the Fair Access Panel to agree a reintegration to a suitable school. Alternatively the PRU will continue with gathering sufficient evidence to support a request for an EHCP. (Also see 5.2).
- 8.5 **Children Looked After (CLA) - Lewisham**
- Children Looked After are given first priority in all Lewisham schools' admissions criteria and must be placed within 10 school days.
  - Where required primary schools must exceed their Published Admissions number to admit a CLA.
  - A CLA who requires admission to a school outside the normal admissions round will be offered a place at their first preference school. A CLA may be placed as an acceptable exception in a Key Stage 1 class. Applications from CLA will be prioritised and normally processed within three school days. The expectation is that the student will normally be offered a place in mainstream provision within ten school days of the application, unless there are compelling reasons otherwise. Details about CLA should be transferred between schools as quickly as possible and ideally within a week of the student starting at their new school.
- 8.6 Managed moves can be an effective mechanism for avoiding permanent exclusions or providing a fresh start where it has been concluded this to be in the best interest of the student. Managed moves are agreed outside of the Fair Access Protocol but will be monitored in order to retain an overview of the movement of hard to place and vulnerable students.