

# LEWISHAM FAIR ACCESS PROTOCOL – SECONDARY



## 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 secondary 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]**

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.

### **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 children are allocated a school place quickly. There is no duty for local authorities or admission authorities to comply with parental preference when allocating places through the Fair Access Protocol. **[Code 3.11]**
- 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.**

<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.

**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 a statement of SEN or EHCPs.

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

- Secondary schools will continue to admit students who apply for a vacancy under in year admission coordinated arrangements in Lewisham.
- Secondary schools cannot cite going over Planned Admissions Number (PAN) as a reason for not admitting a student once they are classified as qualifying for admission under the Fair Access Protocol.
- Secondary schools already at or above their PAN for the year group in question will also be required to admit a fair share of these students. Schools which already admit students under the in year arrangements should not admit a disproportionate number of students under the Fair Access protocol.
- Fair Access students will be given priority for admission over others on a waiting list or awaiting an appeal.
- Secondary 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 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 that school's organisational and structural factors. These will include the 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; It is important to note that whilst these will be taken into consideration they will not be the determining factors in the decision.

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 secondary 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:

- 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.

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<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.

- 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 secondary mainstream schools and to include representatives of those schools in the decision making process.
- Ensure no secondary 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 such as number of students on roll, exclusions and in year admissions is held by the local authority Fair Access Team and will be monitored and taken into consideration.
- 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 roll in coordinating all in year admissions to school.

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

5.1 The School Admissions Code, December 2014 list of 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.
- g) Students with special educational needs, disabilities or medical conditions (but without a statement or Education, Health and Care Plan).

## 5.2 Children categorised as being 'challenging' or 'vulnerable'

Lewisham local authority and secondary schools have locally agreed to include the following children who are categorised as '**challenging**' or '**vulnerable**' to be recognised 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 Abbey Manor College (Lewisham's Pupil Referral Unit) or any another Lewisham 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.
- 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.

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

- j) Students who have returned to the borough the expectation is that they are referred to their previous school (up to two years only) that will 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 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.

#### 5.4 **Admissions in Year 11**

Full and informed parental consent is required to place students who are:

##### 5.4.1 **Year 11 students – English as a second language**

Year 11 students arriving in the borough who have difficulties with fluency in English will be referred to Lewisham College to be placed on the College's EAL programme.

##### 5.4.2 **Year 11 new arrivals or returning to the borough**

Year 11 students arriving in the borough who are English native speakers will be offered an initial assessment to ascertain academic levels and a 'Pathways' meeting at Baseline Lewisham. After the initial assessment and meeting has taken place a referral will be made to Fair Access Panel for a decision.

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

Once a child has been admitted to a school it is for the headteacher to decide how best to educate them. 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 after admission. Admission to a year group outside the chronological age of the child is dependent on the Admissions Policy of the School.

Therefore a headteacher may decide that it is in a child's best interest to be educated in outside the child's chronological year group. Each case should be decided on its own merits. (See Appendix 1)

#### **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 Panel 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 Service Manager for Access, Inclusion and Participation. Members for secondary Fair Access Panel include representatives from:

- Heads/Deputies or Assistant Heads from all Lewisham secondary mainstream schools
- Head/Deputy or Assistant Head from Abbey Manor College
- Safeguarding and Inclusion Team
- Fair Access & Admissions Team
- Attendance Team
- Inclusion and Reintegration Officer
- Children's Social Care
- Youth Offending Service
- Educational Psychologist / Special Education Needs Team
- Lewisham Virtual School

6.4 **Terms of Reference**

The Secondary Fair Access Panel will convene every three weeks in term time for secondary schools.

Data confirming the admission of students under the Fair Access Protocol will be circulated to all secondary schools after each meeting.

- The membership of the Fair Access Panel and the appointments of Panel members is regularly reviewed (at least annually) by the Service Manager 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.
- Decision are reached by 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 **six** headteacher / deputy Panel members present.
- The Fair Access Panel can:
  - Direct students to mainstream schools.
  - Support the referral of students within the agreed criteria to Abbey Manor College or alternative education provision.

- Agree the reintegration of permanently excluded students into mainstream school
- Refer students returning from custodial care to Abbey Manor College 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 and Welfare Officer.
- Ensure, where appropriate, that links are made to Children's Social Care Services.
- Agree to the implementation of School Attendance Order Proceedings
  - Agree action to be undertaken by a named officer
  - 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.

### 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 for the 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 and include:

### 8.1 **In year admissions**

The majority of in year admissions from reception to Year 11 which are not 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).

All applicants are required to complete an In Year Common Application Form (online - Enrol) and return it direct to the local authority; 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.

Secondary 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 a SEN statement or 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.

## 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 secondary 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 normally be offered a place at their first preference school. Applications from CLA will be prioritised and normally processed within three school days. The expectation is that the student will 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.
- If an admission is disputed, the case must be referred to the Fair Access Panel giving detailed reasons **within five school days. The head of the relevant Virtual School reserves the right to direct admission if necessary.**

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.



## Appendix 1:

