

## Calderdale Fair Access Protocol

September 2017

### 1. Aim

- 1.1 The Calderdale Fair Access Protocol aims to ensure the needs of children and young people who have difficulty in securing a school place are met appropriately and efficiently. The Calderdale Protocol operates in a fair and transparent way to inspire confidence in schools, pupils and their parents alike.

### 2. Statutory position

- 2.1 Guidance relating to fair access is contained within the School Admissions Code (December 2014). Each local authority must have a Fair Access Protocol agreed with the majority of schools in its area and there is a requirement for all schools and academies to participate in it to ensure outside the normal admissions round, unplaced children, especially the most vulnerable, are offered a school place as quickly as possible.
- 2.2 In agreeing the protocol, 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. Calderdale Council will record the admission of such cases allocated by the Local Authority to ensure the distribution of these pupils is equal and fair.
- 2.3 All admission authorities **must** participate in the Fair Access Protocol. No admission authority may opt out of the protocol.
- 2.4 The Fair Access Protocol applies to allocating a school place outside the normal round of admissions and is triggered when a parent of an eligible child has not secured a school place under in-year admissions procedures.
- 2.5 The Fair Access Protocol applies to all pupils living in Calderdale. Pupils living in other council areas will be covered by their home local authority's protocol.
- 2.5 In accordance with the School Admissions Code 2014 paragraph 3.11 there is no duty to comply with parental preference when allocating places through the Fair Access Protocol.
- 2.6 In accordance with the School Admissions Code 2014 paragraph 3.12, the Fair Access Protocol also applies where a Governing Body of a school does not wish to admit a child with challenging behaviour outside the normal round of admissions, even though there are spaces available. This would normally only be appropriate where the school has a particular high proportion of pupils with challenging behaviour or previously excluded children.

- 2.6.1 If the governing body of a maintained school or academy does not wish to accept a pupil under the Fair Access Protocol, they need to state their reasons why in writing to the Director, Adult and Children's Services within seven calendar days of receiving the request to admit from the Local Authority. **This provision will not apply to a child looked after, previously looked after or a child with a statement of special educational needs / Education, Health and Care Plan (EHCP) naming the school in question as these children must be admitted.**
- 2.6.2 A community or voluntary controlled school **cannot** refuse to admit a pupil offered a place by its own admission authority (the Local Authority). The protocol will ensure these schools do not admit a disproportionate number of eligible pupils.
- 2.7 In accordance with the School Admissions Code 2014, paragraph 3.13, 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.
- 2.8 There is no requirement of the Fair Access Protocol for a school to automatically admit a child with challenging behaviour in the place of a child excluded from the school.
- 2.9 If a pupil is considered as not being ready for mainstream schooling, following an assessment by the Local Authority's Education Welfare Team or Special Educational Needs Team (if the pupil has an Education, Health and Care Plan) the Local Authority will offer a suitable provision for the pupil.

### 3. Behaviour and Attendance Collaborative (BAC)

- 3.1 In Calderdale, there are five Behaviour and Attendance Collaboratives. One collaborative for all secondary schools and four regional collaboratives serving primary schools in West Central Halifax, North East Halifax, Elland and Sowerby Bridge.
- 3.2 Each collaborative meets fortnightly or three weekly to consider the in-year transfer applications received within the two or three weekly period. Each school which fully participates in the BAC is represented at the meeting. Own admission authority schools may opt out of being full members of the BAC, but **must** participate in the Fair Access Protocol.
- 3.3 Community and Voluntary Controlled schools are all full members of the BAC and will be represented at the meetings by the admissions authority (Local Authority) if they are unable to attend.
- 3.4 Community and Voluntary Controlled schools located where there is no BAC in operation have delegated authority from the admissions authority to admit pupils in-year strictly in accordance with the relevant year's determined admission arrangements.

#### 4. Fair Access Protocol

- 4.1 This is the element of the protocol in which **all** schools must participate and it is designed to address the needs of allocating a school place to children who are vulnerable as quickly as possible.
- 4.2 Pupils considered under the Fair Access Protocol:
  - 4.2.1 Schools will give priority for admission over routine requests for school places;
  - 4.2.2 Schools will continue to admit pupils who apply for an available place, under determined admission arrangements;
  - 4.2.3 Due consideration will be given to each child's individual circumstances and needs and the capacity of the school to meet those needs;
  - 4.2.4 Schools will **not** say that they are full if they are asked to admit a pupil under the scheme. Eligible pupils will be given priority for admission over any others on a waiting list or awaiting an appeal. The capacity of the school and impact of previous admissions will be taken into consideration;
  - 4.2.4 Where all schools within a reasonable distance are full a place will be offered at the school that is least oversubscribed (unless the offer causes the school to take a disproportionate amount of pupils under the Fair Access Protocol). If there is more than one such school, a place will be offered at the nearest school to the child's home.
  - 4.2.5 Schools will respond in writing within seven calendar days to requests for admission (where the decision cannot be made at the scheduled BAC meeting) to ensure that the admission of the pupil is not unduly delayed;
  - 4.2.6 The Local Authority and schools will take account of any genuine concerns about the admission of the particular pupil, for example a previous serious breakdown in the relationship between the school and the family;
  - 4.2.7 If there is the potential to choose between a pupil who has a denominational affiliation or one who doesn't then the "denominational pupil" will be offered the denominational school;
  - 4.2.8 'Eligible pupils are the shared responsibility of all those involved in the young person's education (schools, agencies and parents/carers). All appropriate agencies will support the education of the pupil;

- 4.2.9 Pupils in the following categories are deemed to be eligible and will be considered under the Fair Access Protocol:
- children from the criminal justice system or Pupil Referral Units who need to be reintegrated back into mainstream education;
  - children who have been out of education for two months or more;
  - children of Gypsies, Roma, Travellers, refugees and asylum seekers;
  - children who are homeless;
  - children with unsupportive family backgrounds, where a place has not been sought;
  - children who are carers;
  - children with special educational needs, disabilities or medical conditions (but without a statement or Education, Health and Care Plan)

The Calderdale Fair Access Protocol also considers:

- children whose parents have been unable to find them a place after moving to the area, because of a shortage of places;
- children without a school place and with a history of serious attendance problems;
- children of UK service personnel with a confirmed posting to Calderdale or crown servants returning from overseas to live in Calderdale; and
- any other children who may not be covered by the above who the collaborative or Local Authority (where no BAC operates) decide should be considered under this protocol.

## **5. Reaching a Decision**

5.1 In determining the most suitable school, the Collaborative or Local Authority (for areas where no BAC operates) will take into account the following factors:

- parental preference.
- the circumstances of the pupil, including the admission year group.

- the distance from home to school, wherever possible. For a child aged under eight years old, a school within a two mile walking distance is deemed a reasonable distance and a child aged eight years or over, a three mile walking distance is deemed as reasonable.
- in meeting the pupil's needs, the number and proportion of pupils already admitted through the protocol will be taken into account.
- the number of pupils a school admits under the Fair Access Protocol will be recorded centrally and updated information will be issued to schools annually at the beginning of the following academic year.

## **6. Routine Transfers and Admissions**

6.1 Routine transfers and admissions are not a mandatory part of this protocol. It is requested that applications for in year admissions will in the first instance be submitted to the Local Authority's School Admissions Team. The majority of requests will be processed without recourse to the Fair Access Protocol. This complies with the provisions of the School Admissions Code which envisages that the Fair Access Protocol will be used only in circumstances where a parent of an eligible child has not secured a school place under in-year admission procedures.

## **7. Making Recommendations**

- 7.1 In the unlikely event that a school is unable to accept a decision reached by the Collaborative (or Local Authority for schools in an area where no BAC operates) then the Collaborative (or Local Authority Officers where no BAC operates) may make recommendations to the Director of Adult and Children's Services to invoke statutory powers of direction or recommend referral to the Department for Education (DfE).
- 7.2 Local authorities, the Schools Adjudicator and the Secretary of State for Education all have powers to direct the admission of individual children.
- 7.3 In terms of the Fair Access Protocol the Secretary of State has a general power to enforce compliance in addition to the option of replacing Calderdale's protocol with one of his own.