

## ROYAL BOROUGH OF KENSINGTON AND CHELSEA

### FAIR ACCESS PROTOCOL

#### Background

1. The School Admissions Code (updated February 2012) requires local authorities to have a Fair Access Protocol in place which ensures that access to education is secured quickly for children who have no school place and that all schools in an area admit their fair share of the most vulnerable children, including those whose behaviour has been challenging. All schools and academies *must*<sup>1</sup> agree and participate in the Fair Access Protocol and will be expected to admit children above their published admissions number if the school is already full.
- 1.2 The Admissions Team would normally be the first point of contact for parents/carers resident in the Royal Borough seeking a school place for their child. In the majority of cases, children will be allocated a school place in accordance with normal in-year admission procedures either in a Hammersmith & Fulham school, or due to geography a neighbouring borough school.
- 1.3 In accordance with 3.23(b) of the Code, local authorities **must** produce an annual report on admissions to the Adjudicator which must include an assessment of the effectiveness of Fair Access Protocols and co-ordination in their area, including how many children were admitted to each school under them.
- 1.4 The Royal Borough of Kensington Chelsea and Hammersmith & Fulham Council have established a Bi-borough Fair Access Panel (membership attached as Appendix A), and Terms of Reference (attached as Appendix B) in order to achieve the best possible outcomes for resident children that are considered Hard to Place and/or vulnerable. Each borough will have in place its local Fair Access Protocol that correlates with the Bi-borough Term of Reference.

#### 2. Scope of the Fair Access Protocol

- 2.1 The Protocol will apply to all children normally resident, or who will be normally resident, in the Royal Borough. It is, in effect, a safety net or a last resort process for the minority of children where normal procedures for in-year admissions have failed and the child is considered to be 'hard to place'
- 2.2 The aims of the Fair Access Protocol are to:
  - be fair and transparent and have the confidence of schools;
  - ensure that out of school children identified for a FAP placement are offered education provision appropriate to the child and their needs as quickly as possible;
  - ensure excluded children return to mainstream school as quickly as possible where it has been assessed as appropriate;
  - ensure that all schools in the area, including those that may have places available admit their fair share of children who have had behavioural difficulties.

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<sup>1</sup> The word *must* represents mandatory requirements of the Admissions Code

- ensure that children who are more vulnerable to missing education, which may in turn impact in their welfare, health and safety, happiness and educational opportunity are placed in a school as quickly as possible.
- 2.3 It is recognised that while some children may be vulnerable, it is not always the case that they will be 'hard to place' in a school and will in most cases be offered a school place in accordance with normal in-year admissions arrangements.
- 2.4 Taking account of the local context summarised in the next section, the Royal Borough's Fair Access Protocol covers two broad categories.
- **Children of statutory school age whose parents have moved to the Royal Borough of Kensington and Chelsea and have been unable to secure a school place.**
  - **Children or young people attending Tri-borough Alternative Provision (TBAP) following exclusion or with a history of serious attendance problems who need to be reintegrated into mainstream education.**
- 2.5 Fair Access referrals cannot be made to, or considered by the panel for pupils on roll at any other mainstream school. Consideration for a managed move will apply in cases where it may be necessary for a fresh start in another school.
- 2.6 Fair Access referrals cannot be made to, or considered by the panel for children that are no longer resident in the area, or that have left the country, even for a short period.

### 3. The local context

- 3.1 **Primary Provision** - The primary school provision of the Royal Borough falls into northern and southern sub-divisions of more or less equal size and population. There is rarely any difficulty in placing primary age children in North Kensington and in the area immediately to the north of Notting Hill Gate. There are always vacancies in the primary schools in this part of the borough.
- 3.2 There is more pressure on the primary schools in the southern part of the borough (Kensington High Street area, Earl's Court, South Kensington, Chelsea). Additional places have been provided to address the increase in demand. So far, there have been enough places in the south to meet demand from applicants in the older primary age groups.
- 3.3 **Secondary Provision** - The Royal Borough has five secondary schools. Only one, Holland Park, is a community school and will convert to an Academy with effect from September 2013. Chelsea Academy, which opened in September 2009, has an intake which is part CE, part community. The other three schools are Catholic and two of them draw most of their pupils from outside the borough. No two of the RC schools are alike: St. Thomas More is mixed, Sion-Manning is a girls' school and Cardinal Vaughan is for boys only.
- 3.5 Because of this unusual pattern of secondary provision, a legacy from before the time the Royal Borough was an education authority, nearly half of its resident children of secondary age are obliged to attend schools in neighbouring LAs, particularly Westminster and Hammersmith and Fulham. This situation will change both when the Chelsea Academy is fully operational by 2013, and with the opening of a new academy in north Kensington in 2014.

#### 4. How the categories will be managed

##### 4.1 Children arriving in the borough and unable to secure a school place

4.2 **Primary provision** - A primary aged child whose parents have recently arrived in the Royal Borough and who have been unable to secure a school place will be directed to the nearest community school, unless they have a preference for a faith school (see Para. 4.3). Usually it will be possible to agree with the headteacher that the child will be admitted even if that means exceeding the usual maximum class size. If agreement cannot be reached, the Royal Borough will, as the school's admission authority, issue an instruction that the child be admitted.

4.3 Enquiries will be made about the parents' preferences (if any) as to a faith education. If the child appears to meet the criteria for one of the local Church of England or Catholic schools, the Governing Body of the nearest school in that category will be asked to accept the child even though it may mean exceeding the usual maximum class size. If agreement cannot be reached, the Royal Borough will consider whether it is appropriate to issue a direction to the Governing Body to admit the pupil under S96 of the Schools Standards and Framework Act 1998. Such a direction would be subject to the limitations and provisos set out in S97 of that Act and *must* only specify a school within a reasonable distance from the child's home and one from which the child has not been excluded.

4.4 If such circumstances arise, the Admissions Team will ensure that approaches to schools are spread evenly so that no school is expected to take more than its fair share of supernumerary applications.

4.5 Only in very limited circumstances (Code. para 2.15) will a primary school be expected to exceed 30 pupils in an infant class where the majority of children will reach the age of 5, 6, or 7 during the school year as this would result in "infant class size prejudice".

4.6 A primary school will not be asked to admit above its Published Admissions Number or other agreed limit to meet the preference for a child who:

- already has a school place within a reasonable distance of home;
- has voluntarily given up a school place in order to seek a place under this Protocol;
- is moving from a fee-paying school;
- is moving from elective home education;
- have refused school(s) that have been offered.

In these circumstances a child will be offered a school place at the nearest school with a vacancy. Parents should consider the likelihood of subsequently securing a place at their preferred school if they decide to either remove their child from school or to not seek a place at school, for example, in the normal round of admissions. No places will be held back at a school to accommodate children of parents who choose to apply later.

4.7 **Secondary provision** - There are usually enough vacancies in Years 7-11 in secondary schools in neighbouring LAs. Because of the nature of local geography, these may be as near or as accessible to parents as schools within the Royal Borough. Parents looking for a school place will be informed of the possible vacancies available in schools in neighbouring LAs, if there are no vacancies available within the borough, and will be advised to apply to as many schools as possible to increase the chance of a place being offered. Parents looking for a school place will

be informed of the possible vacancies available. If the parent experiences difficulties obtaining a place at in or out of the borough, the Admissions Team will intervene to secure a place as quickly as possible, and unless there are exceptional circumstances preventing a straight-forward admission, within 20 school days. This process will be in accordance with the normal in-year admissions arrangements.

- 4.8 Difficulties are most often encountered in finding places for pupils in Years 10 and 11. Schools may have vacancies in these year groups but can be reluctant to admit Key Stage 4 children who have embarked on a different course of GCSE studies. Where such children also have emotional, behavioural or other difficulties, it may need to be considered appropriate for a dual roll arrangement with the Tri-Borough Alternative Provision (TBAP). Decisions on this matter will be made in the light of the child's individual needs. The school may also prioritise the child for consultation with the Educational Psychology Service.
- 4.9 The statutory duty on the home LA is to ensure suitable<sup>2</sup> education is provided to its resident children. A child will not be considered for a Fair Access placement if a school has been identified through the normal in-year procedures. Securing a school place at any time other than the normal phase of entry to school (reception and Year 7) will mean that the majority of schools will be full. It will often be the case that the identified school will not be the preferred school, but will be the nearest school with a vacancy.
- 4.10 It is the legal responsibility of the parent/carer to ensure the child in their care receives suitable education provision. If a school place has been identified but refused by the parent/carer, every effort will be made to identify an alternative school if possible in accordance with normal in-year admissions arrangements. It must be made clear that there will be little or no element of choice when seeking an in-year admission as most schools will be full. A persistent refusal by the parent/carer of a school place will be referred to the ACE Team.
- 4.11 Depending on the individual circumstances, it may not always possible to place a Year 11 pupil in a school. If this is the case, they will be referred by the Admissions section to TBAP who will consider, in consultation with parents/carers and professionals, the arrangement of appropriate alternative provision. TBAP will not accept direct approaches from schools in such circumstances.

## 5. Mechanism for placement of hard to place secondary age children

- 5.1 Where it has not been possible to identify a school for a child in accordance with the standard in-year admission arrangements after one school term of initial registration, the child will be considered as 'hard to place' and will be allocated a school place in accordance with the Fair Access Protocol. Extensive negotiation is not part of the Protocol. The choices offered will be limited and because of the limited places available there may indeed be no choice at all. As far **as is reasonably practical**, the following will be taken into account when identifying the appropriate school in which to allocate a place to the child:
- Parental preference including religious or cultural affiliations;
  - The number on roll at the identified school, whether the school has exceeded its Published Admissions Number, by how many and reasons why.

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<sup>2</sup> The definition of 'suitable education' is efficient full-time education suitable to a child's age, ability and aptitude.

- How many children have been placed at local schools under the Fair Access Protocol.
- Whether the school has a clear and identifiable reason why it cannot meet the child's needs.
- The opinion of professionals who may be involved.

## **6. Procedures for Royal Borough schools**

- 6.1 Fair Access placements are considered outside of an individual school's admission criteria and *must* take priority above applicants on a waiting list (if there is one in operation and irrespective of number on roll).
- 6.2 Whilst each LA's Fair Access Protocol covers only the schools in its local authority area, due to the local context set out in Para 3.3, it will sometimes be necessary to approach neighbouring authorities to request consideration under its Fair Access Protocol if all options within the borough have been exhausted. In partnership with Hammersmith and Fulham and Westminster Council, cross border placement requests will form part of agreed practice.
- 6.3 Children who have been assessed as 'hard to place' *must* receive priority for admission over others on waiting lists or awaiting an appeal.
- 6.4 Where a Royal Borough school has been identified as an appropriate placement for the child, the school will be expected to admit the child without unnecessary delay. All schools, including Academies, are expected to arrange a 'placement meeting' with the family within 5 school days of notification of the agreed placement. Exceptionally, in the intervening period a child may require assessment by the school and the LA to determine need for additional support which cannot be put in place by the given date. In this instance, the school must notify the Admissions Team to inform the parent of the reason for delay and give a new start date. The expectation is for the child to be on roll at the agreed school within 10 school days of the notification, unless the latter applies.
- 6.5 In the event of a school refusing to accept the admission the Royal Borough will direct or instruct the school to admit. The governing bodies of schools which are their own admissions authority may refer a direction to the Schools Adjudicator who will determine which school is to admit the child. For Academies, the LA will apply for a direction to the EFA.
- 6.6 Where a parent expresses a preference for a particular school and a place cannot be offered, the parent *must* be informed of the right of appeal. The child's name will also be added to the waiting list for the school in accordance with the admissions criteria for that school.
- 6.7 If the parent/carer rejects the school or alternative provision offered to the child, they will still have the right to appeal for a place at the preferred school(s). The appeal panel will be informed that places have been allocated according to the criteria of the Fair Access Protocol which *must* be taken into account.

## **7. Refugee and Asylum seekers**

- 7.1 Although refugees and asylum seekers often arrive in Kensington and Chelsea, they rarely form a large group in search of school places. In practice, therefore, those pupils merge with the overall group of casual arrivals whose parents have moved to the area and who are seeking a school place. Such children normally secure a school place in accordance with normal in-year admission procedures.

**8. Children with a statement of special education needs and Looked After children**

- 8.1 The provision of the Fair Access will not apply to a looked after child, previously looked after child or a child with a statement of special education needs naming the school in question. These placement of children are managed through a separate process.

**10. Excluded children or children at serious risk of exclusion**

- 10.1 Managed moves can be an effective mechanism for avoiding permanent exclusions or providing a fresh start where it has been concluded this is in the best interest of the child. Managed moves are agreed outside of Fair Access arrangements but will be monitored in order to retain an overview of the movement of Hard to Place/vulnerable children.
- 10.2 TBAP, through their SLA with schools, provides managed interventions to support pupils in danger of exclusion. Primary schools can refer pupils, groups and classes to the Behaviour Intervention Team. The Golborne Education Centre offers 'day 6' provision and managed interventions for secondary aged pupils. Many pupils also benefit from a Pastoral Support Programme (PSP) which clearly sets out the needs of the pupil, corresponding details of support to be provided by the school, family and LA and offers a mechanism to monitor improvements.

**11. Funding – *under review***

- 11.1 Where schools are asked to accept children above their admission number these will be funded according to the Royal Borough's pupil-based formula. When a child is excluded from one of the Royal Borough's schools, the remaining portion of that child's AWPU (age-weighted pupil unit) will be recovered from the school and used for the Royal Borough's Pupil Referral Unit or TBAP to help fund alternative provision. Where the child is not a Royal Borough resident it will be paid to the home LA. When a school admits a child who was previously permanently excluded, the admitting school will receive the remaining AWPU for the child. These arrangements apply to children up to and including year 11.
- 11.2 The effective operation of the Fair Access Protocol will be for the benefit of the Royal Borough's children and will require the full cooperation of all schools in the Royal Borough.