

# Medway Council

# Fair Access Protocols

# for admission to

# Medway secondary schools and academies

**Agreed as effective from**

**May 2022**

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Medway secondary schools, academies and free schools

Date: 17 May 2022

Version: 1.4

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| **Version** | **Date** | **Type** | **Author** |
| 1.0 | July 2021 | Draft | Kim Gunn |
| 1.1 | July 2021 | Revised draft following consultation with LA and Headteachers | Kim Gunn |
| 1.2 | August 2021 | Revised draft following consultation with LA and Headteachers | Robert Lancaster |
| 1.3 | October 2021 | Revised draft following consultation with LA and Headteachers | Robert Lancaster/MSHA representatives |
| 1.4 | May 2022 | Revised draft following consultation with LA and Headteachers | MSHA representatives/ LA representatives |

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This can be found at: [www.medway.gov.uk/info/200217/freedom\_of\_information/347/data\_protection/1](http://www.medway.gov.uk/info/200217/freedom_of_information/347/data_protection/1)

**Principles of Inclusion in Medway**

Partners in Medway’s education community include schools of all types, the local authority and other related agencies. All have agreed that the following principles will underpin their work with and for children and young adults.

* In carrying out our work, we will put children and their needs at the centre of all we do and decide.
* All children, including those with additional needs, deserve the best possible educational provision and the best possible chances of realising their potential.
* Vulnerable children are best served when members of the education community accept a shared responsibility for their progress and wellbeing, work collaboratively to support them and do so in a mutually supportive and blameless manner.
* Children’s additional needs will be identified and addressed as early as possible.
* Exclusion of a child will always be a last resort and will only take place after all other strategies and interventions have been tried.
* With the exception of some, children should only be in alternative provision for the short-term.
* We believe that excluded children, and those attending AP, are capable of modifying their behaviour and deserve ongoing support; provided it is in their best interest, we will work together to support the reintegration of children into mainstream settings.

**Confidentiality and fairness agreement**

It is noted and agreed by all members of the Medway Fair Access Panel (including schools/academies and LA representatives) that:

1. All cases discussed within the meeting and all related paperwork will not be disclosed to other parties outside of the meeting (other than those directly working with the relevant child)
2. All discussions will be strictly private and confidential within confines of the Fair Access Panel meeting.
3. The decisions reached by the panel will be fair, consistent, objective and, most importantly, in the best interests of the young person concerned.
4. No panel member will look to unduly influence other panel members in relation to a specific case before, during or after the Fair Access Panel meeting.
5. All decisions made at the meeting will be binding and all offers made will be honoured by the school/academy concerned.
6. The placement of a child will not be recorded on the fair access figures until the young person is actually on roll of the school/academy concerned.  Offers of places will also be recorded.
7. All parties will adhere to the provisions of the School Admissions Code and, where appropriate the School Admissions Appeals Code and all other relevant legislation.
8. All parties will be mindful of and strictly adhere to the requirements of GDPR and all relevant information governance guidance/instruction.

**1** **Aims of Fair Access Protocols**

1.1 The agreed aims of the Medway fair access protocol is:

*“To place a young person in the most appropriate environment to support their learning and development, taking cognisance of the impact on each individual school and education in Medway.”*

* 1. This aim is supported by the following principles:
* Decisions made by the panel will be young person centred, with placements that are in the interests of the young person;
* Cases will be considered by a panel of headteacher peers who have an empathetic understanding of each school’s situation
* All schools and the local authority will work collaboratively to ensure that the protocols are effectively applied without jeopardising the provision of efficient education for others in the school.

**2 Background and framework**

2.1 Paragraphs 3.14-3.22 of the [School Admissions Code 2021](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/389388/School_Admissions_Code_2014_-_19_Dec.pdf)  provide the basis for the establishment of Medway fair access protocols. In addition the following non-statutory published guidance has been used to assist with the drafting of these protocols:

[*https://www.gov.uk/government/publications/fair-access-protocols-in-school-admissions*](https://www.gov.uk/government/publications/fair-access-protocols-in-school-admissions)

2.2 It is recognised that the local authority, which has a statutory duty to ensure that all Medway children have a suitable educational placement, is an equal partner in the Fair Access Panel. The decision of the collective FAP panel, of which the LA is a part, is used to allocate places at FAP.

**3      Medway Fair Access Protocol Triggers**

**3.1 In-year admission applications**On receipt of an in-year admission application, the relevant Medway secondary school/academy will consider whether the young person meets the criteria for consideration under the Medway fair access protocols. It is for the FAP, that is the Local Authority and the panel to convene for this purpose, to obtain as much relevant information as they can when considering a referral under 3.10 of the Admissions Code. 3.10 says “ Where an admissions authority receives an in-year application for a year group that is not at the normal point of entry and it does not wish to admit the child because it has good reason to believe that the child displays challenging behaviour, it may refuse admission and refer the child to the Fair Access Panel”. It is the responsibility of the school to ask for/verify information pertaining to the application from their previous school(s)/other agencies, if required. Where the school/academy has made numerous efforts to get this information, the Local Authority will support the acquisition of this information.

Paragraph 2.9 of the Admissions code prohibits admissions authorities from refusing to admit a child solely in the absence of information from the previous school. This process relates to the general process of admissions and not specifically to the admission of pupils through FAP, particularly when there is a referral under 3.10.

To support FAP having the information it needs to appropriately place pupils, FAP can ask the LA to commission an initial assessment of a pupil. This can be done where there is sparse behavioural information about a pupil, and where there is “good reason to believe that the pupil displays challenging behaviour” or where a pupil is in receipt of an EHCP.

If, based on the information available to the relevant school/academy or to the local authority, the school can demonstrate that the young person meets one or more of the fair access criteria as per 3.10 footnote 76 of the Admissions Code (see 3.1.1) they will refer the application and all relevant evidence to Medway Council School Admissions and Transport Team for inclusion on the next available fair access panel meeting agenda.

Additionally, if the school applied for is full to PAN, the young person meets the criteria for FAP (School Admissions Code 3.17) and the school cannot offer a place over PAN through Fair Access Protocol, it can refer the young person to the next panel meeting.

If the applied for school is not full to its PAN, the school is expected to offer the young person a place through the standard in-year admission process (School Admissions Code 3.18) unless the young person meets the criteria to be referred under 3.1.1.

**3.1.1 The challenging behaviour criteria – (Admissions Code 3.10 footnote 76)**The fair access protocols in Medway canbe triggered whenever a young person (whether on roll of another Medway school or unplaced) is considered hard to place, against one of the following categories:

* a young person who has been out of education for two months or more
* a young person who has not attended a secondary school (including those who were allocated a secondary school but did not attend it)
* a young person whose attendance at their previous school was below 70%
* a young person who has been permanently excluded once or whose most recent permanent exclusion was less than two years ago
* a young person with 10 or more days of suspensions over the last two academic years (the referring school will consider the grounds on which suspensions were made when deciding whether to refer to FAP)
* a young person deemed at risk of permanent exclusion by their current school
* a young person who has been on or been offered a managed transfer due to challenging behaviour
* a young person currently attending a Pupil Referral Unit (PRU) or whose most recent placement was a PRU or similar provision for behavioural/social or emotional reasons
* a young person returning from school after a criminal sentence has been served and YOT are involved
* a young person reintegrating back into mainstream schooling from alternative provision in Medway

**3.1.2 Students deemed to be hard to place**

FAP protocols may only be used to place the following groups of vulnerable and/or hard to place children, where they are having difficulty in securing a school place in year, and it can be demonstrated that reasonable measures have been taken to secure a place through the usual in-year admission procedures

* Children either subject to a Child In Need Plan or a Child Protection Plan or having had a CIN or CP plan within 12 months at the point of being referred to the protocol.
* Children living in a refuge or in other Relevant Accommodation at the point of being referred to the protocol
* Children from the criminal justice system;
* Children in alternative provision who need to be reintegrated into mainstream education or who have been permanently excluded but are deemed suitable for mainstream education
* Children with special educational needs (but without EHCP), disabilities or medical conditions;
* Children who are carers;
* Children who are homeless;
* Children who are in formal kinship care arrangements
* Children of, or who are, Gypsies, Roma, Travellers, refugees and asylum seekers;
* Children who have been refused a school place on the grounds of their challenging behaviour and referred to the protocol in accordance with paragraph 3.10 of the Admissions Code (see 3.1.1 above)
* Children for whom a place has not been sought due to exceptional circumstances;
* Children who have been out of education for four weeks or more where it can be demonstrated that there are no places available at any school within a reasonable distance of their home.  This does not include circumstances where a suitable place has been offered to a child and this has not been accepted; and
* Previously looked after children for whom the local authority has been unable to promptly secure a school place

**3.2** **Reintegration**

In cases where the pupil has recently been permanently excluded, and/or is attending AP, the Inclusions team will broker a place with a mainstream school after discussion with the AP regarding a suitable placement.In making this allocation, the factors listed in 5.12 will be applied. The AP school and the receiving school will then initiate a reintegration plan which will include a target reintegration date. (See appendix A)

1. **Ensuring fair distribution of allocations to schools**

4.1 All Medway schools/academies, including those that are full (i.e. have already admitted up to their PAN) will take their fair share of young people who meet at least one of the criteria in paragraph 3.1.1 or 3.1.2 . The school/academy should be an appropriate placement and this will include selective schools/academies where the young person is deemed to be of this ability.

* 1. The fair access panel will be responsible for ensuring a fair distribution of pupils, taking into account quantitative and qualitative data and evidence, which will be reviewed at each meeting.
	2. In line with the aims and principles, placements should be young person centred, whilst being empathetic to the circumstances of individual schools, and as such, there is an expectation that fair access arrangements will result in a similar percentage of young people being placed at each school.
	3. If any school has concerns about the disproportionate placement of pupils or has other contextual information that they believe should be taken into account, then this should be raised through the chair of the meeting, and the discussions and conclusions of the panel recorded in the minutes (see 5.15 and 5.16).
	An accurate three-year summary of agreed placements will be shared and discussed at each meeting, showing the number of young people placed under the following headings:
* young person with challenging behaviour (i.e. referred under 3.1.1)
* other hard to place young people (i.e. referred under 3.1.2)
* managed transfers
* termly information regarding ‘standard’ casual admissions for each school
* young people returning to their original school from home education
* % of the total school made up of young people allocated via FAP

* 1. Placements will be counted in the summary figures once it has been confirmed in writing to School Admissions and Transport that the young person has started at the school. Until the young person has been placed on roll and started at the school, they will be recorded in the ‘pending’ column on the FAP figures.

A factual check on FAP numbers should be carried out with schools a week prior to the FAP meeting.

* 1. The local authority will fund the cost of transport to schools where the recommended school is over the minimum distance to be eligible for transport assistance (3 miles) and in exceptional circumstances.
	2. In relation to Children in Care (CIC) and Previously Children In Care (PCIC)CIC/PCIC who trigger the Fair Access Protocols through the information received will be discussed outside of the Fair Access Panel meetings for an application outcome with the preferred school. Following these discussions, if a place is secured for the CIC/PCIC they will be offered and admitted according to standard in-year admission procedures.

The admitting school will receive the recognition of this admission in the FAP figures.

A CIC/PCIC case will only be brought to the Fair Access Panel if all other discussions have failed to result in the admission so of the child. (see 3.1.2 above)

**5.Fair Access Panel**

* 1. The allocation of young people who fall under the fair access protocols will take place at the meetings of the fair access panel to ensure places are allocated as quickly as possible.
	2. Panel meetings will take place on a monthly basis (11 meetings a year) and will be attended by all headteachers of non-selective Medway secondary schools.

	All grammar school headteachers will be invited to attend and vote on cases where the young person has been previously assessed to be of grammar ability under the Medway assessment procedures and a place is, therefore, being considered for a place at a Medway grammar school.

	Headteachers unable to attend **must** allocate another headteacher to represent them (please see 5.7).
	3. Council officers from School Admissions and Transport will administer the fair access arrangements including the panel meetings. Representatives of School Admissions and Transport, Inclusion and the Attendance Advisory Service, will attend meetings to provide professional advice and guidance.
	4. Should a young person be known to another service (e.g. YOT) then a representative will be invited by School Admissions and Transport to provide additional information to, and to attend, the Fair Access Panel. Social Services and the Medway Council Virtual Headteacher for looked after young person will be informed of any looked after young person being discussed and an offer to provide a recommendation and attend the meeting will be made.
	5. The Fair Access Panel will be chaired by the Head of School Services. The Vice Chair will be a headteacher/principal from a Medway secondary school/academy and this person will be agreed either at an MSHA meeting or the first FAP meeting in the new academic year.
	6. Headteachers are defined as those in substantive headteacher posts.  For schools that are part of a multi-academy trust the head of schools or ‘Executive’ headteacher for the purposes of the FAP process will be regarded as the headteacher.
	7. If it is not possible for a headteacher to attend a panel meeting, then they must agree with another headteacher to represent their school. The headteacher representing their school will need to have been briefed before the meeting to enable them to agree placements on behalf of their school and to vote by proxy where required.
	8. Case papers for the meeting and minutes of the previous meeting will issued 5 working days prior to the meeting to allow headteachers time to review cases prior to the meeting and to bring supporting guidance as appropriate.  If paperwork is not received 5 working days prior to the meeting, the Headteachers reserve the right not to consider the case.
	9. The following contextual information and data will be made available at each meeting and should be sent by the School Admissions and Transport team along with the FAP paperwork 5 working days in advance of the meeting:
* Individual school contextual data (to be updated by schools 5 working days preceding the meeting)
* Fair access figures for the last 3 years
* Roll number and capacity figures for all Medway schools
* The number of ‘standard’ casual admission offers for each school (split by year group) will be included on a termly basis.
	1. Each case is presented and discussed so that the panel can make an informed decision over the most appropriate placement for the young person. The agenda items for each meeting will be:
1. Presentation of data on the number of young people placed under the fair access protocols for the previous three years
2. Presentation of contextual information provided by schools for consideration by the panel
3. Consideration of cases for young people that have been considered hard to place (3.1.2)
4. Consideration of cases for young people that are already on roll at a Medway school that have requested a transfer to another Medway school, and who meet the criteria in paragraph 3.1.1 (\*)

\* Managed transfers are not covered by the FAP protocols and should be discussed using the guidance and protocols for managed transfers.

* 1. Cases will be presented by a local authority officer, or an AP headteacher, based on the factual information included in the paperwork. The chair will then invite headteachers and professional advisors to put forward any further contextual information about the individual pupil, including parental preference, any support that may be needed to ensure the placement is a success and reasons why placement at a particular school is thought to be not in the best interests of the young person or the school.  There is no duty for local authorities or admissions authorities to comply with parental preference when allocating places through the Fair Access Protocol. (Schools Admissions Code 3.19 2021)
	2. The panel will then discuss the most appropriate placement, based upon the factors below (not listed in any priority order):
* Parental/carer preferences
* The views of members of the FAP panel
* The most appropriate environment to support the young person’s learning and development (+)
* Geographically nearest / ease of travel
* Fair distribution – the number of young people already taken by the school/
* Whether a young person has previously attended a Medway school/academy (see 5.13)
* Faith preferences, where evidence is provided in line with the school of faith criteria.
* General contextual information about individual schools
* Contextual information about individual pupils and the impact of their placement at particular schools

+ The panel could recommend a student for testing to assess whether they should be deemed selective and therefore placed in a grammar school.

* 1. In cases of a young person returning from being educated at home and young persons who are ‘children missing education’ through parental choice there would be an expectation for the young person to return to their previous school, unless the panel agrees that the situation between the school and family has completely broken down and is therefore untenable or there are exceptional circumstances.
	2. Where a primary school student has not taken up their place at their allocated secondary school in year 7, and the parent subsequently applies to a school, there is an expectation that the child will generally be allocated their original secondary school offered in the secondary transfer process, unless another school offers a place.
	3. In most circumstances it is expected that the most appropriate school will be agreed through discussion, and with the agreement of the headteacher of the school at the panel meeting. In these cases, this will constitute agreement that an offer can be made, and a formal offer will be sent to the parent from the Local Authority within 3 working days of meeting.
	4. If it is not possible to reach agreement through discussion the following process will be followed:
* The local authority or, in reintegration cases, the local authority and the headteacher of the young person’s AP school, will, using the criteria in paragraph 5.12, name the school they think most appropriate to be allocated.
* If the headteacher of that school accepts the allocation, then the decision will be made, and a formal offer will be sent from the Local Authority within 3 working days of the meeting.

	1. If, after all other avenues have been investigated, including a professional discussion involving the Headteacher with appropriate council officers, the school offered by the Fair Access Panel does not accept the decision, then the local authority may decide to write to the headteacher and chair of governors setting out the details of the case, the decision and rationale of the panel, and the intention of the local authority to seek a direction unless the school reconsiders its decision in line with paragraphs 3.23 to 3.29 of the admissions code 2021.
	2. Where appropriate any member of the panel can outline any additional support that could be provided to ensure that the pupil has the best chance of a successful integration. Headteachers can suggest the support they believe a young person needs in order to be successful in their school.
	3. In a small number of cases concerning young people, including where they have been permanently excluded **and** where there is clear evidence and agreement at panel that a mainstream placement would not be in the young person’s interest, then the local authority Inclusion team will be asked to arrange alternative provision and funding for the placement would move with the young person (Admissions Code 2021 para 3.16). Where the panel believe that a student is not ready for mainstream schooling, there will be a professional discussion between officers and relevant education leaders within 7 working days to agree appropriate provision. This allows for the possibility of a young person who has not been permanently excluded not being placed in a mainstream school, where this is the agreement if the fair access panel.

**6       Governance arrangements**

6.1 On an annual basis (During Term 5/6 each year) a representative group of headteachers and local authority representatives will be established to review the protocols and update them as necessary with the agreement of the majority of Medway secondary schools/academies.

6.2 In the event that the majority of secondary schools in Medway can no longer support the principles and approach of the Fair Access Protocol, they should initiate a review with the local authority and this should be completed within one calendar month.

 The process of review will be for the Vice-Chair of the panel to confirm in writing to the local authority that the majority of schools no longer support the protocol and therefore a review is required.

 The local authority will then review the protocol per 6.1 (albeit at the time of request rather than term 5-6).

 The existing Fair Access Protocol will remain binding on all schools in Medway until the point at which the new one is adopted.