

Medway Council Fair Access Protocol

For Admission to Medway Primary/Infant/Junior Schools and Academies

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Document Details

Authors

Medway Council

Medway primary, infant and junior schools

Contact Details

School Admissions, Medway Council, Gun Wharf, Dock Road, Chatham, ME4 4TR

[casualadmissions@medway.gov.uk](mailto:casualadmissions@medway.gov.uk)

01634 331155

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Principles

Principles of Inclusion in Medway

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

* 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 chances of realising their potential. For most of our children, this means enabling them to be included in their local community and schools.
* All our children are best served when we, as 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 manner.
* Children will have their additional needs 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.
* We believe that all children, including those that have been excluded and are attending alternative provision, can modify their behaviour when in receipt of the appropriate support and we will work together to ensure successful reintegration into education.

Confidentiality and fairness agreement  
  
It is agreed by all members of the Medway Fair Access Panel that:

* All cases discussed within the meeting and related paperwork will not be disclosed to other parties outside of the meeting (other than those directly working with the relevant child)
* All discussions will be strictly private and confidential within confines of the Fair Access Panel meeting.
* The decisions reached by the panel will be fair, consistent, objective and, most importantly, in the best interests of the child concerned.
* 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.
* All decisions made at the meeting will be binding and all offers made will be honoured by the school concerned.
* The placement of a child will not be recorded on the fair access figures until the young person is on roll of the school concerned.
* 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.
* All parties will be mindful of and strictly adhere to the requirements of GDPR.

1 Aims of the Fair Access Protocols

* 1. The agreed aim of the Medway Fair Access Protocol (FAP) is:

*“To place children in the most appropriate environment to support their learning and development”*

* 1. This aim is supported by the following principles:

1. Decisions made by the panel will be child centred. In making placement decisions, the interests of the child are the priority.
2. Cases will be considered by a panel of Headteacher peers.
3. All schools and the local authority will work collaboratively to ensure that the protocols are effectively applied.

2 Background and framework

2.1 Paragraphs 3.14 to 3.22 of the [School Admissions Code 2021](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1001050/School_admissions_code_2021.pdf) provide the basis for the establishment of Medway fair access protocols. In addition, [non-statutory guidance](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1001153/Fair_access_protocols.pdf) has been published to assist with the drafting of these protocols:

2.2 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 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 primary school/academy will consider whether the child meets the criteria for consideration under the Medway fair access protocols. This should primarily be determined by the information available on the application form.

If the school applied for is full to PAN, the young person meets the criteria for FAP (see 3.1.1 & 3.1.2) 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 Challenging behaviour Criteria

Per School Admissions Code 2021 paragraph 3.10, *where an admission authority receives an in-year application for a year group that is not the normal point of entry and it does not wish to admit the child because it has good reason to believe that the child may display challenging behaviour, it may refuse admission and refer the child to the Fair Access Protocol.*

*Behaviour can be described as challenging where it would be unlikely to be responsive to the usual range of interventions to help prevent and address pupil misbehaviour or it is of such severity, frequency, or duration that it is beyond the normal range that schools can tolerate. We would expect this behaviour to significantly interfere with the pupil’s/other pupils’ education or jeopardise the right of staff and pupils to a safe and orderly environment.*

For the purposes of this Code, challenging behaviour includes:

* + a child who has been permanently excluded within the last two academic years
  + a child 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

3.1.2 Students deemed to be hard to place[[1]](#footnote-2)

Other than 3.1.1, 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[[2]](#footnote-3) have been taken to secure a place through the usual in-year admission procedures

1. 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.
2. Children living in a refuge or in other Relevant Accommodation at the point of being referred to the protocol
3. Children from the criminal justice system;
4. 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
5. Children with special educational needs (but without EHCP), disabilities or medical conditions;
6. Children who are carers;
7. Children who are homeless;
8. Children who are in formal kinship care arrangements
9. Children of, or who are, Gypsies, Roma, Travellers, refugees and asylum seekers;
10. 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)
11. Children for whom a place has not been sought due to exceptional circumstances;
12. Children who have been out of education[[3]](#footnote-4) for four weeks or more where it can be demonstrated that there are no places available at any school within a reasonable[[4]](#footnote-5) 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
13. Previously looked after children for whom the local authority has been unable to promptly secure a school place[[5]](#footnote-6)

3.2 Permanent Exclusion

If a permanently excluded child does not have an EHC Plan, the local authority will consider the child to be eligible for a mainstream school place. The LA will then commission alternative provision for Day 6+ provision only.

At its first meeting after the exclusion, the Fair Access Panel will allocate a receiving school for the child, as described in section 5. In making this allocation, the factors listed in 5.12 will be applied.

4 Ensuring fair distribution of allocations to schools

* 1. In line with the aims and principles, placements should be child-centred.
  2. All Medway schools/academies, including those that are full (i.e. have already admitted up to their PAN) will take their fair share of children referred to the panel.   
     ***NB:*** *going over PAN for Fair Access cases is permitted under the School Admissions Code in Key Stage 2 but infant class size restrictions still apply for Key Stage 1.*
  3. The fair access panel will be responsible for ensuring a fair share of pupils. There is an expectation that fair access arrangements will not result in any school being required to admit more than a reasonable number of pupils.
  4. If any school has concerns about the disproportionate placement of pupils, this should be raised through the chair prior to the meeting. The discussions and conclusions of the panel will be recorded in the minutes.
  5. An accurate three-year summary of previously agreed placements will be shared and discussed at each meeting, showing the number of children placed under FAP:
  6. Placements will be counted in the summary figures once it has been

confirmed to School Admissions that the child has started at the school. Until the child has been placed on roll and started at the school, they will be recorded in the ‘pending’ column on the FAP figures.

Schools/academies are permitted to offer places to children (who meet the criteria to be referred to panel) outside of the panel meeting. If this occurs, the offering school must inform School Admissions and provide the relevant paperwork to receive credit for doing so.

* 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.

4.8 Looked After and Previously Looked after Children

All cases that relate to the admission of a Looked after Child (LAC) or previously Looked after Child (PLAC) **who triggers the Fair Access Protocols through the information received** will be discussed with the relevant school/academy outside of the Fair Access Panel meetings for an application outcome. If, following these discussions, a place is secured for the LAC/PLAC they will be offered and admitted in line with the casual admissions procedures.

The admitting school will subsequently receive recognition of this admission in the FAP figures collated by School Admissions.

5 Fair Access Panel

* 1. The allocation of children 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 2 headteacher representatives from each of the four MELA zones  
       
     If a representative is unable to attend, the representative will arrange for another headteacher from the same zone to represent them.

Representatives will sit on the panel for two academic years before attempting to find a replacement through their MELA zone meetings. If no replacement can be found, the existing representative is happy to continue for another year and their colleagues in their zone are agree for them to continue, the representative will sit on the panel for another year. At which point, they will attempt to find a replacement again.

However, the Local Authority encourages new panel members to come forward every two years to enable participation from those who have not sat on the panel before.

* 1. Case papers for the meeting will be shared with the panel and schools local to the children five working days prior to the panel meeting.

Local schools will be invited to offer placements to the children on the agenda prior to the meeting.

Placements for children who do not have one by the time of the panel meeting will be decided by the panel.

Local schools will not routinely attend the panel meeting. At the time of sharing papers, schools will be invited to provide any exceptional background information as to why they may not be able to offer a place in the relevant year groups. If they wish, head teachers can request to attend the panel meeting to explain this verbally instead.

* 1. Before a Panel hearing, the local authority will have taken a view on the most appropriate school for the placement of the child based on section 5.12.
  2. Council officers from School Admissions will administer the fair access arrangements including the panel meetings. Representatives of School Admissions and the Attendance Advisory Service will attend meetings to provide professional advice and guidance. A representative from the Inclusion Team will attend to provide guidance for children who have been permanently excluded.
  3. Should a child be known to another service (e.g. SEND) then a representative will be invited by School Admissions to provide additional information to, and to attend, the Fair Access Panel.
  4. The Fair Access Panel will be chaired by the School Admissions Manager or the School Admissions & Medway Test Programme Lead. The Vice Chair will be a headteacher/principal from a Medway primary school/academy. The Vice Chair will Chair the meeting when the Chair is unable to and will act as a point of contact for the panel outside of panel meetings.
  5. Headteachers are defined as those in substantive headteacher posts with accountability to the inspectorate and named on the school’s Ofsted inspection report. For schools that are part of a multi-academy trust the head of schools or associate headteacher for the purposes of the FAP process will be regarded as the headteacher.
  6. The following contextual information and data will be made available at each meeting and should be sent by the School Admissions team along with the FAP paperwork 5 working days in advance of the meeting:
* Fair access figures for the last 3 years
* Roll number and capacity figures for all Medway schools
* Dashboard data from the start of each term (1, 3 and 5)
  1. Each case is presented and discussed so that the panel can make an informed decision over the most appropriate placement for the child.
  2. Cases will be presented by a local authority officer based on the information included in the paperwork. The Chair will invite 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 in the best interests of the child.
  3. The panel will then discuss the most appropriate placement, based upon the factors below (not listed in any priority order):
* The most appropriate environment to support the child’s learning and development
* Fair distribution – the number of children already taken by the school/academy
* The number of children each local school has on roll compared to their PAN and one another
* Parental/carer preferences
* Geographically nearest / ease of travel
* Family logistical matters such as which schools any siblings attend
* The views of the local authority
* Whether a child has previously attended a Medway school/academy
* 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
  1. In cases of a child returning from elective home education and children who are ‘children missing education’ through parental choice there would be an expectation for the child to return to their previous school, unless the situation between the school and the family has completely broken down and is therefore untenable or there are exceptional circumstances.
  2. The most appropriate school will be agreed by the panel through discussion.
  3. The headteacher nominated school will be informed of the decision and will be requested to admit the pupil. Once agreement to admit the pupil is received, the School Admissions Team will send the family an offer with three working days.

* 1. If the headteacher of the nominated school does not agree to admit the child, the local authority will seek a direction in line with paragraphs 3.23 to 3.29 of the School Admissions Code.
  2. Where appropriate the panel will outline any additional support that should be put in place to ensure that the pupil has the best chance of a successful integration. For example:
  + referral to/engagement with outreach services
  + engagement with mental health support teams or other emotional wellbeing services
  + referral to Early Help services
  + review of wrap around services to support school engagement to build attachment within school
  + a phased start
  + if the child has been permanently excluded and was receiving tuition as part of their sixth day provision, part-time and short-term use of their tutor in school as part of their reintegration programme (arrangements to be agreed with the Inclusion Team and subject to agreement of the tuition service)

6 Governance arrangements

6.1 On an annual basis (term 5-6 each year) the panel and a local authority representative will be established to review the protocols and update them as necessary before the local authority seeks the agreement of the majority of Medway infant, junior and primary schools.

6.2 In the event that the majority of infant, junior and primary schools in Medway area can no longer support the principles and approach of the Fair Access Protocol, they should initiate a review with the local authority.

The process of review will be for the Chair of MELA 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.

1. Schools Admissions Code 2021 para 3.17 [↑](#footnote-ref-2)
2. For example, where an application has been made to at least one school and has been refused and/or the local authority has confirmed there are no school places available at any school within a reasonable distance [↑](#footnote-ref-3)
3. Including those who are educated at home [↑](#footnote-ref-4)
4. Reasonable is deemed to be less than 3 miles [↑](#footnote-ref-5)
5. Local Authorities may consider swift use of their general powers of direction or asking the Secretary of State to consider direction [↑](#footnote-ref-6)