
Education Improvement Team

FAIR ACCESS PROTOCOL

For any enquiries regarding this protocol, please contact schooladmissions@knowsley.gov.uk

1. Context

- 1.1 The School Admissions Code requires the Local Authority (LA) to have a Fair Access Protocol (FAP), agreed with the schools in its area, to ensure that unplaced and vulnerable children, and those having difficulty securing a school place, are allocated a suitable school place as quickly as possible.
- 1.2 The protocol applies to the admission of pupils to schools in Knowsley outside of the normal point of admission. A referral to FAP is the result of a request for placement 'in-year' and will take place if it can be demonstrated that reasonable measures have been taken to secure a place through in-year procedures and that the pupil meets one of the prescribed categories of children eligible to be considered under the protocol.
- 1.3 The protocol aims to ensure that all schools are treated in a fair, equitable and consistent manner and that no school – including those with available places – is asked to take a disproportionate number of children who have been permanently excluded from other schools, who display challenging behaviour, or who are placed via the protocol. Whilst parent's wishes are recognised, there is no duty to comply with parental preference when allocating places through FAP¹.
- 1.4 The protocol also determines how the needs of children who have been permanently excluded, and children for whom mainstream education is not yet possible, will be met.
- 1.5 The FAP can **only** be used to place the following prescribed categories² of children of statutory school age where they are having difficulty in securing a school place:
 - A. Children either subject to a Child in Need Plan or a child protection plan or having had a Child in Need Plan or Child Protection Plan within 12 months at the point of being referred to the protocol.
 - B. children living in a refuge or in other relevant accommodation at the point of being referred to the protocol.
 - C. children from the criminal justice system.
 - D. 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.
 - E. children with special educational needs (but without an Education Health and Care Plan), disabilities or medical conditions.
 - F. children who are carers.
 - G. children who are homeless.
 - H. children in formal kinship care arrangements;³
 - I. children of, or who are, Gypsies, Roma, Travellers, Refugees and Asylum seekers.
 - J. children who have been refused a school place on the grounds of their challenging behaviour and referred to the protocol.
 - K. children for whom a place has not been sought due to exceptional circumstances.

¹ This does not remove parental right to appeal against the refusal of a place at their preferred school via the independent appeal process.

² As defined in the School Admission Code, 2021, para 3.17

³ As evidenced by a child arrangement order not relating to either birth parent or a special guardianship order.

L. children who have been out of education for four or more weeks 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 not accepted.

M. previously looked after children for whom the LA has been unable to promptly secure a place.

1.6 As other legislation and procedures are in place, accessing FAP is **not** possible if:

- the child has an Education Health and Care Plan (EHCP)
- the child is a looked after child (LAC)

It is also expected that previously looked after children (PLAC) or previously looked after children from state care outside of England (IPLAC) would not be required to be referred to FAP, as they would normally be considered on the same basis as LAC. The provision within the prescribed categories for these children would only be necessary if a school place has not been secured promptly⁴.

1.7 There is a presumption that pupils with SEND will have their needs met, including reasonable adjustments, in mainstream settings. Referrals to FAP should only be in exceptional circumstances and where strong evidence suggests an EHCP process should ordinarily have been pursued.

2. Referral to Fair Access Panel

2.1 Admission Authorities must consider all formal in year applications submitted and must not refuse to admit a child unless to do so would prejudice the provision of efficient education and efficient use of resources in the school. Where a place cannot be offered due to capacity having been reached, or in the exceptional circumstance that the admission authority of a school with an available place feel the admission of an individual child would prejudice the efficient delivery of education and efficient use of resources, the admission authority/school are required to inform the School Admissions Team in the LA, who will identify if a referral to FAP is necessary – this will usually be if a placement is required, **and** the child meets one of the prescribed categories stated in 1.5.

2.2 Where it is confirmed that a referral to the FAP is being progressed, the refusing school/s must share with the LA admissions service any factual information about the child and their own setting as evidence of why placement would not be appropriate.

Referrals on the grounds of Excessive Challenging Behaviour

2.3 Where an admission authority has a view not to admit a child because there is evidence of excessive challenging behaviours, they will refer the application to FAP. It is expected that any admission authority will only use this provision if it can demonstrate that it already has a particularly high proportion of children with challenging behaviour or previously permanently excluded pupils on roll compared to other local schools, and

⁴ Unplaced PLAC/IPLAC confirmed as resident in Knowsley may be referred to FAP for a placement decision if it is evidenced they have not secured an offer of a place within 15 school days of an application being made.

admitting another child will prejudice the provision of efficient education or the efficient use of resources⁵.

- 2.4 Admission authorities cannot make referrals on the grounds of challenging behaviour in respect of the following children:
- looked after children (LAC) and previously looked after children (PLAC/IPLAC).
 - children with an Education, Health and Care Plan (EHCP) naming the school.
 - children applying in the normal admissions round in the normal year of entry (unless the child has been excluded from two or more schools).
- 2.5 If the fair access panel agree that the child meets the threshold of challenging behaviour, they will follow the placement rationale as described in section 3 of this protocol. However, if the child has an accessible school placement (i.e., they are not unplaced and there has been no significant change of address), no further placement decision will be taken.
- 2.6 If an admission authority presents a case that demonstrates a high proportion of children with challenging behaviour or previously permanently excluded pupils on roll, this will remain valid evidence for a period of 12 school weeks in relation to subsequent referrals.

Referrals for reintegration from a Pupil Referral Unit (PRU)

- 2.7 Knowsley PRU (Meadow Park) can refer to panel any children who are of single registration and require mainstream reintegration. This may include children who have been permanently excluded, or those who have previously been placed at the PRU by FAP at a time when that child was not considered ready to access mainstream provision. There is no minimum time that a single registered pupil must be on roll/in attendance at the PRU before reintegration referral is made as each case will be considered in context.⁶

Local Authority referrals for unplaced pupils and Children Missing Education (CME)

- 2.8 The LA monitors in-year applications and may refer a child to FAP for a placement decision if the child is identified as a Knowsley resident child missing from education/unplaced and a place has not been secured through the typical in-year application process in a timely manner (i.e. within 15 school days).
- 2.9 The LA will refer to FAP the placement of any children arriving in borough who are unable to access their previous school and for whom an application has been made but there is confirmed full/over subscription in all schools within the borough/locality in the year group requested. Similarly, a referral will be made to identify a school to be named for the purpose of a School Attendance Order (SAO) if there is confirmed

⁵ The Admission Code defines behaviour 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 and significantly interfere with the pupil/other pupils' education or jeopardise the right of staff and pupils to a safe and orderly environment.

⁶ PEX pupils will not typically commence a reintegration placement until PEX procedure are concluded and the pupil is removed from roll at the excluding school. However, referral to FAP can take place in advance to identify a mainstream school of reintegration placement in readiness for reintegration to progress as soon as possible.

full/over subscription in all schools within the borough/locality in the year group required.

- 2.10 In the primary sector (years reception to year 6) a referral will be made if every school within the local Knowsley planning area that the child is resident is fully subscribed and/or distance to the closest Knowsley school from the home address with an available place is over 45 mins travel time. In the secondary sector (years 7 to 11) a referral will be made if every school within Knowsley is fully subscribed and/or the closest Knowsley school with an available place is over 70 minutes travel time.⁷

3. Placement rationale

- 3.1 FAP is obligated to agree a placement for any unplaced Knowsley resident child who is referred to the protocol i.e. not on a school roll, or unable to continue to access their last provision (even if they have not yet been officially removed from roll) due to distance/travel constraints if the child has moved into the area.
- 3.2 FAP recognises the need for admission authorities, school leaders and LAs to work collaboratively, considering the needs of the child and the circumstance of the school where the child might be placed.
- 3.3 Knowsley resident children of statutory school age who are permanently excluded (PEX), will ordinarily be placed on the roll of Knowsley PRU (without the need for discussion at FAP). This will be the provision until PEX procedures conclude, and until the child is considered ready to access mainstream provision again, at which point the reintegration process via FAP will be initiated by the PRU.
- 3.4 Knowsley resident children of statutory school age (i.e. those in Key Stages one, two, three or four) who arrive in borough and whose last educational placement is confirmed as being in a PRU/equivalent alternative provision within another borough on a single-registration basis, will ordinarily be placed on the roll of Knowsley PRU (without the need discussion at FAP). The intention will be to assess suitability for a mainstream placement; when the child is ready to access mainstream provision, the reintegration process via FAP will be initiated by the PRU.
- 3.5 For unplaced Knowsley resident children who have been referred to FAP under other prescribed categories, and where panel agree by majority vote that an immediate placement in a mainstream setting would not be appropriate, an initial placement can be accessed at the LA PRU⁸. In this circumstance, a mainstream school placement will be identified as the main registration but, prior to accessing this placement, initial attendance would take place at the PRU on a subsidiary registration for a period of six school weeks (and can be extended to a maximum 12 school weeks if necessary). To

⁷ Travel time includes walking distance and/or by car/public transport and the panel will be mindful of journeys requiring more than two modes of transport. Where a place is applied for and secured at a school outside of what is defined as 'reasonable' within this protocol because of parental preference, there would not typically be a requirement to refer the child for placement via FAP.

⁸ Any consideration of placement at the PRU, either on a subsidiary or single registration basis, will be subject to contextual factors in the PRU at the time of the discussion, and any placement may impact on availability of provisions such as commissioned places for other pupils already on roll at mainstream schools.

ensure the placement plan is transparent to all parties, a representative from both the mainstream school of placement and the PRU should be present at the initial induction/admission meeting with the child and any review meetings.

- 3.6 Placement at the PRU, for children other than those stipulated in paragraphs 3.3 and 3.4, on a single registration basis would **only** be an option if the child has not been registered at a mainstream provision for a minimum period of a full school term immediately prior to referral **and** one of the following can be evidenced:
- significant challenging behaviour in the last school attended.
 - the child was not accessing mainstream classroom provision in the last provision due to interventions in place to manage/regulate behaviour – typically being removed from the class for most of the school day.
 - evidence that the child has been referred for placement in an alternative provider/PRU or equivalent provision by their previous/current education setting as a method of intervention to manage/regulate challenging behaviour within the last 12 months of attendance.
- 3.7 Professionals at Knowsley PRU will determine when a child who is of single registration at the PRU is ready to be reintegrated into mainstream education and will refer that child to FAP for placement (as described in paragraph 2.8). In this circumstance, a 12-week reintegration placement on a dual registration basis (the PRU being the main registration and the mainstream school the subsidiary) is accepted as the appropriate transition route. Reintegration includes regular reviews between all parties and is monitored at each meeting of FAP; panel are required to ratify the outcome of the reintegration to confirm any decision about the continued registration of the child after the 12-week period is concluded.
- 3.8 Where FAP determine that a mainstream school place is the appropriate placement for an unplaced Knowsley resident child who has been referred under any category, an open and transparent discussion will determine the most appropriate school placement. The usual expectation is that any placement of a primary age child will be at a school that is within 45 minutes travel time from the home address and any placement of a secondary age child will be in a school that is within 70 minutes travel time from the home address.
- 3.9 No single school will be asked to admit a disproportionate number of children who have been permanently excluded from other schools, who display challenging behaviour, or who are placed via the protocol. Therefore, FAP is not required to comply with parental preference (although parents views and the contextual situation of the applicant will be into account). To achieve and equitable distribution of the children it is placing, the protocol allows for placement at a school beyond the typical admission limit and in advance of an existing waiting list and refusal of a place even when a vacancy exists.
- 3.10 If FAP upholds a decision to refuse admission to a particular school, consideration of placement at any other school will take place at the same meeting.
- 3.11 In rare circumstances it may be necessary to defer a placement decision to a subsequent meeting. However, all placement decisions must be made within 20 school days of initial referral to the protocol.

- 3.12 FAP is committed to consistency but recognises that each case will have unique circumstances. Previous decisions may help guide, but each referral is to be considered within its own context and decisions made reflect context at the time of consideration.
- 3.13 FAP recognises the importance of peer relationships in neighbourhoods, schools and spaces, and how this can have contextual safeguarding implications. FAP is attentive to extra-familial risks when placing young people.

4 Decisions and appeals

- 4.1 Once it has been agreed that a child is eligible to be considered under FAP, a school place must be allocated for any unplaced Knowsley resident child within 20 school days.
- 4.2 A successful FAP is predicated on the principle that decisions taken are binding. Once a placement decision has been taken, schools are expected to admit the child by registration on the school roll as soon as possible and within fifteen school days.
- 4.3 If a school disputes the placement decision of FAP, they should notify the Clerk to panel in writing as soon as possible and within seven school days. The LA will always aim to resolve any dispute but has the power to direct the governing body of a maintained school to admit a pupil and, where an academy is considered to best meet the needs of a child, the LA can ask the Secretary of State to intervene under the academy's funding agreement⁹.
- 4.4 Whilst any placement dispute is ongoing, there is a duty to provide education provision to unplaced Knowsley resident pupils; FAP will consider what provision should be made.
- 4.5 The School Admissions Appeals Code states that the offer of a place by FAP does not remove a right to appeal against the refusal of a place at any school of parental preference, or prevent the parent from making further in-year application to another school/s. There is no legislative restriction when an appeal against a refusal can be lodged by the applicant, but the expectation is that this would be no later than 20 school days following the applicant being notified of the refusal.
- 4.6 Parents who have received a refusal notification for a school of preference following a FAP decision, who then make a subsequent application for the same school/s during the following sixth month period, should expect the outcome to remain the same. The exception would be if the chair of FAP is of the opinion that there have been significant and material changes in the circumstances of the parent/carer/child or school, which may justify a further application being considered within this timeframe.

5 The panel and procedures

- 5.1 Knowsley fair access panel consists of a representative from each secondary establishment in the borough, up to three primary representatives¹⁰ and a PRU representative. School members should be the Headteacher or their representatives

⁹ As per sections 96 and 97 of the School Standards and Framework Act 1998 and paras 3.23-3.25 and 3.29 of the School Admissions Code 2021

¹⁰ It is possible that a number of primary school Headteachers may form a 'pool' of representation and attend on a rotational basis. Typically, there would be one representative from each collaborative area.

who have been designated to take decisions on behalf of the school. Representation is expected for every meeting, and it is possible that placements can be made at schools even if there is not a direct representative from that school in attendance at the meeting.

- 5.2 Other contributors to panel include LA professionals such as: an Education Improvement Officer/Service Manager, Behaviour and Inclusion Officer, Special Educational Needs Officer and School Attendance/Children Missing Education Officer. These officers would attend as required in an advisory role, providing information relevant to legislation or the individual case for which they may be involved, but would not vote in any decisions taken.
- 5.3 The Chair of panel has a duty to facilitate effective decision-making in accordance with the agreed protocol and is a role typically undertaken by a school representative member following nomination and election. The Chair will be confirmed at the beginning of each school year but can be a continuing roll for more than one school year. A Vice Chair will also be confirmed to deputise on occasion when the Chair cannot be present at meetings. For expediency, decisions will be taken if there are a minimum of five Knowsley school voting representatives present at the meeting. In the event of a split decision where the vote is tied, the Chair will make a casting vote.
- 5.4 Knowsley operates a combined primary/secondary FAP meeting. In the event of a primary referral being made to panel by a school, a representative from the school will be invited to attend to present a school perspective, but this can also be by written submission. Where the LA is making a referral for a primary placement, the potential school/s being considered as placement options will be notified of the year group and referral category a minimum of five school days prior to the meeting with the option to attend and/or make representations in writing
- 5.5 Clerking facilities, including all administrative duties, remain the responsibility of the LA and are currently undertaken by a Senior Admissions Officer.
- 5.6 The panel will meet fortnightly during term time (if required). The deadline for referral to the meeting agenda is two working days before (typically 5pm Monday). A maximum of eight referrals will be heard at any single meeting; if more than this number have been received, those children who are unplaced/missing from education will have priority. Wherever possible, a summarised referral agenda will be sent to designated school email addresses one working day in advance of the meeting and a further email, confirming key decisions made, and any required actions, will be issued the next working day after panel have met.
- 5.7 To enable FAP to achieve equitable distribution, cumulative data of in-year admissions and FAP placements will be available throughout the year. This information will be collated by the Clerk and presented at each meeting.