



# City of Westminster

## WESTMINSTER SECONDARY SCHOOLS

### IN-YEAR FAIR ACCESS PROTOCOL

#### Background

1. The School Admissions Code 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 *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 Local Authority's (LA) *Admissions and Access to Education Team* would normally be the first point of contact for parents'/carers resident in Westminster 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 Westminster school, or due to geography, in a neighbouring borough school.
- 1.3 In accordance with 3.30(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 objective of the Westminster's Fair Access Protocol is to achieve the best possible outcomes for resident children that are considered hard to place and/or vulnerable.

#### 2. Aims of the Protocol

- 2.1 This Protocol will apply to all secondary school aged children normally resident, or who will be normally resident, in Westminster. 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'.

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

2.2 The objectives are to:

- be fair and transparent and have the confidence of all schools.
- ensure that out of school children identified for a Fair Access placement are offered education provision appropriate to the child and their needs as quickly as possible.
- ensure permanently excluded children, and children in alternative provision, return to mainstream school as quickly as possible where it has been assessed by relevant professionals 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.
- ensure that children who are more vulnerable to missing education, which may in turn impact on 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 should, in most cases, be offered a school place in accordance with normal in-year admissions arrangements.

2.4 The Westminster Fair Access Protocol covers two broad categories:

**External - Children who have been out of education for a minimum of 4 or more weeks from the date of registration for a school place with the LA and where it can be demonstrated that there are no places available at any school within a reasonable distance from their home<sup>2</sup>.**

**Internal - Children or young people attending Ormiston Alternative Provision (OAT ) who have been assessed by OAT as ready for reintegration back 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. The process of managed moves can be found in **Para. 8**.

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<sup>2</sup> Reasonable distance as defined in the DfE 'Home to school travel and transport guidance' is a distance from home to school no further than 3 miles as calculated as a short walking route, or a public transport journey that does not exceed 75 minutes each way.

- 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.
- 2.7 Schools will place back on roll any child that previously attended their school where the parent withdrew to home educate. This applies to children resident in both Westminster and Kensington and Chelsea. Only when exceptional circumstances apply, that does not allow the child to return to the school, will the case be referred for a Fair Access placement at an alternative school.

### 3. Key principles of Fair Access

- the protocol will apply to Westminster residents only<sup>3</sup>.
- that all schools engage and participate in the process and ensure that their published admission arrangements include fair access.
- that all schools send a senior school representative to each meeting. Where not possible, to inform the LA prior to the meeting of any comments they wish to be made known on any of the cases.
- that all schools to be considered for a nominated placement whether a representative in attendance at the Panel meeting or not.
- that decisions to be made take account of the number of times a school has been nominated to admit a case, and to ensure, as far as reasonably practical, that no school is asked to admit a disproportionate number of Fair Access placements; and
- that all decisions are binding on the nominated school and the parent/young person.

### 4. Threshold for a Fair Access Placement

- 4.1 As outlined in para. 2.4, referrals are made for a Fair Access placement in accordance with either the External or Internal category.
- 4.2 **External** - *Children who have been out of education for 4 or more weeks from the date of registration for a school place with the LA.*
- 4.3 To meet the above threshold for referral, the parent /carer must evidence that applications have been made to at least **one** school that has known vacancies and admission to that school has been refused. *The Admissions and Access to Education Team* will provide parent/carers with details of schools that can be applied to. No case will be referred for a fair access placement where schools with vacancies have not been applied for.
- 4.4 **Internal** - *Children attending Alternative Provision (OAT) who have been assessed by OAT as ready for reintegration back into mainstream education.*

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<sup>3</sup> With the exception of 2.7 which applies to children resident in both WCC and RBKC.

- 4.5 To meet the above threshold for referral, senior OAT staff will determine the readiness of a return to mainstream education in liaison with the parent/carer and child. Following assessment, the case will be summarised and presented in the same format as external cases.
- 4.6 Referrals for a Fair Access placement ***will not*** be considered under the following headings:
- **Children that are categorised as Look After Children (LAC)**<sup>4</sup> *must* be admitted to the identified school as a priority outside of the normal admission round. The Virtual School lead on this process.
  - **Children with an Education, Health and Care Plan** *must* be admitted to the named school as a priority outside of the normal admissions round. The SEN team lead on this process.
  - **Children removed by the parent/carer from a Westminster School to Elect to Home Educate (EHE).** In cases where this arrangement has either been deemed unsatisfactory by the LA Home Education Assessor, or the parent/carer request that their child return to school, the child will be placed back on the roll of the school last attended. Only when exceptional circumstances apply, that does not allow the child to return to the school, will the case be referred for a Fair Access placement at an alternative school.

## 5. Referral Process

5.1 Referrals for a Fair Access placement are determined by senior officers in the *Admissions and Access to Education Team* on behalf of the LA and are broadly represented as outlined in paragraph 2.4.

5.2 The following process will apply:

- Cases are agreed for Fair Access placement by senior officers in the *Admissions and Access to Education Team*.
- All case information obtained is summarised for secure circulation to Panel members. The Panel membership and Terms of Reference are outlined in **Appendix A**.
- Cases are circulated whenever possible at least five days before the scheduled meeting (see also **Para 5.3**).

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<sup>4</sup> (DfE Admissions Code): 'In most cases use of the Fair Access Protocol should be unnecessary for a previously looked after child. We would expect the local authority to aim to secure a school place particularly promptly for a previously looked after child and for admission authorities to cooperate with this. The local authority may consider swift use of their general powers of direction (under paragraphs 3.26-3.28) or asking the Secretary of State to consider a direction (under paragraph 3.29) to be the most suitable course of action if a school place for a previously looked after child cannot be agreed with an admission authority promptly.'

- Each school will return 'expression of interests' against cases prior to the scheduled meeting.
  - The LA's nominated Fair Access officer will keep a record of interest against each case to present at the scheduled meeting. Interest expressed will inform the final placement decision making process.
  - No school is to make contact with families prior to the scheduled meeting.
- 5.3 In order to ensure a school place is allocated within 20 school days from when senior officers have agreed to consider a case or cases for Fair Access, it may be necessary to consult with schools in advance of the next scheduled meeting in order to secure a confirmed place within the statutory deadline.
- 5.4 For exceptional cases where the Local Authority determine it necessary to secure a place at either Ormiston Latimer Academy or Ormiston Beachcroft Academy urgently, these will be considered fast-track fair access cases and referred directly to the Ormiston Academy Trust for immediate placement outside the normal meetings schedule.

## 6. Decision making process

- 6.1 Extensive negotiation is not part of the decision-making process. The choices offered will be limited and because of the limited places available across Westminster schools, there may indeed be no choice at all. As far **as is reasonably practical**, and in no priority order, the following will be taken into account by the Panel when identifying the appropriate school in which to allocate a place to the child.
- Parental preference including religious or cultural affiliations.
  - Distance from home to school.
  - The number on roll of considered school(s), whether the schools has exceeded its Published Admissions Number in the relevant age group, by how many and reasons why.
  - How many children have been placed at each school 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.
  - Expressions of interest submitted by schools.

## 7. Refusal of agreed placement

- 7.1 It is the legal responsibility of the parent/carer to ensure the child in their care receives suitable education provision. 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 of the fair access process and placement

decision. *The Admissions and Access to Education Team* will manage the case as a Child Missing Education (CME) and consider school attendance proceedings.

- 7.2 Any case that requires a school to be named in a School Attendance Order (SAO)<sup>5</sup> will be categorised as a Fair Access placement if the child is placed on the school roll.
- 7.3 All Fair Access decisions are binding on the nominated school and child. However, in the unlikely event that a school refuses to admit a child under the protocol, the local authority may formally direct a maintained school to admit the child, or in the case of an academy the case may be referred to the Secretary of State. The LA will refer to guidance issued by the DfE for such referrals.

## **8. Managed moves**

- 8.1 Managed moves are voluntary non-statutory arrangements entered into and brokered between schools directly. Whilst the LA has no involvement in these arrangements, it is supportive of its objective. The basic principle behind managed moves is to offer a pupil a 'fresh start' at a new school/provision, for example, when a pupil is deemed to be at risk of permanent exclusion. Parental consent is required in order for schools to undertake managed moves. When a managed move is set up, there is normally an initial trial period whereby the pupil starts to attend the new school/provision but is 'dual-registered', i.e., they remain on the school roll of the original school as well as the new school (for attendance monitoring etc.) Once the trial is deemed successful, the pupil is confirmed on roll at the new school and removed from the roll of the original school. If, for any reason the trial is unsuccessful, e.g., for behavioural reasons, then the pupil returns to the original school. Each school will have its own relationships with other schools across various boroughs that may be part of the same Academy Trust or Diocese to enable managed move arrangements.
- 8.2 As with Fair Access placements, managed moves are to be recorded for the purpose of monitoring the mobility of vulnerable children. Schools will provide the details to the LA Fair Access Officer prior to each meeting.

## **9. Funding**

- 9.1 All Fair Access placements will receive £1,250 funding in addition to the associated AWPU (age-weighted pupil unit). Payment will be made once the child is confirmed as on the school roll.

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<sup>5</sup> the local authority shall serve on the parent an order (referred to in Education act 1996 as a "school attendance order"), in such form as may be prescribed, requiring him to cause the child to become a registered pupil at a school named in the order.

## Appendix A

### **Membership and Terms of Reference for The Panel**

#### **Membership**

The Headteacher and Chair of Governors of all Westminster Secondary Schools, Senior OAT staff together with key LA Officers will be deemed as members of the Fair Access Panel. A minimum of at least **three school representatives** to be present in order that the meetings be quadrate.

**The Chair and Vice-Chair will be a Headteacher and is nominated annually.**

**The nominated WSSIC coordinator will be the Clerk to the meeting.**

#### **Terms of Reference**

The Fair Access Panel forms part of the wider *Westminster Secondary Schools Improvement Collaborative (WSSIC)*. Fair Access is a scheduled agenda item at each twice termly meeting.

- The Panel will be used as a forum for updates between the Local Authority and schools on the development of partnership work in relation to behaviour, attendance, and exclusion and to agree outstanding placements.

The LA Secondary Fair Access Officer will:

- present the cases at each meeting that have previously been circulated and address any question that may arise.
- make schools aware of historical placements made across all schools by reference to the 'placement sheet' to inform appropriate decisions.
- note the placement decisions to follow up with each named school within 3 days following the meeting.
- provide up-to-date data on placements from the previous meeting.
- update on any other matters pertinent to the remit of the Admissions and Access to Education Service.

WCC Secondary Fair Access Protocol – September 2023