



# In Year Fair Access Protocols

September 2021

to comply with the Statutory School Admissions Code 2021



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# In Year Fair Access Protocols

## **1. Rationale/Aims**

There is a collective responsibility for all schools and academies to ensure that vulnerable groups of children are admitted on an equitable basis to a suitable school/academy as quickly as possible to ensure the safeguarding of all young people in Kirklees. We must all work together to protect them and act in their best interests. The Kirklees Fair Access Protocol will ensure that the needs of children and young people, who have difficulty in securing a school place, are met appropriately and efficiently through enrolment in a mainstream school/academy setting as quickly as possible, minimising the time that pupils spend out of school. The protocol operates in a fair and transparent way and the system is underpinned by consistency, openness and honesty that has the confidence of schools/academies, children and young people and parents/carers.

FAPs are intended to act as a safety net for the most vulnerable. As such, they may only be used to place the described categories of children, where a child is 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 in-year admissions process. Parents have the right to apply for any school place at any time and must not be refused the opportunity to make an application. Where a parent has been refused a school place, they must be offered the right to appeal to an independent appeal panel. Upon receipt of an in-year application, an admission authority must not refuse to admit the child to a school on the basis that they would be, or they believe they would be, eligible to be placed via the FAP. The application must be processed in accordance with the usual in-year admissions process

## **2. Statutory Requirements (DfE School Admissions Code 2021)**

*‘Each local authority must have a Fair Access Protocol to ensure that unplaced and vulnerable children, and those who are having difficulty in securing a school place in-year, are allocated a school place as quickly as possible’.*

### **Legislation: School Admissions Code (2021) sections 3.14 to 3.22: Fair Access Protocols**

- *The Protocol must be consulted upon and developed in partnership with all schools in its area. Once the Protocol has been agreed by the majority of schools in its area, all admission authorities must participate in it. Participation includes making available a representative who is authorised to participate in discussions, make decisions on placing children via the Protocol, and admitting pupils when asked to do so in accordance with the Protocol, even when the school is full. Local authorities must provide admission authorities with reasonable notice and information as to how and when discussions around the placement of children via the Protocol will take place.*
- *No school - including those with places available – should be 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. Fair Access Protocols must also set out how the needs of children who have been permanently excluded, and children for whom mainstream education is not yet possible, will be met.*
- *Fair Access 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 a) children either subject to a Child in Need Plan or a Child Protection Plan or having had a Child in Need Plan or a 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; 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 in accordance with paragraph 3.10 of the Code; k) children for whom a place has not been sought due to exceptional circumstances; 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 this has not been accepted; and m) previously looked after children for whom the local authority has been unable to promptly secure a school place.*

- *Eligibility for the Fair Access Protocol does not limit a parent’s right to make an in-year application to any school for their child. Admission authorities must process these applications in accordance with their usual in-year admission procedures. They must not refuse to admit such children on the basis that they may be eligible to be placed via the Fair Access Protocol. The parent will continue to have the right of appeal for any place they have been refused, even if the child has been offered a school place via the Fair Access Protocol.*
- *There is no duty for local authorities or admission authorities to comply with parental preference when allocating places through the Fair Access Protocol, but parents’ views should be taken into account.*
- *Fair Access Protocols should seek to place a child in a school that is appropriate to any particular needs they may have. The Fair Access Protocol must not require a school automatically to admit a child via the Fair Access Protocol, in place of a child permanently excluded from the school.*
- *Where it has been agreed that a child will be considered under the Fair Access Protocol, a school place must be allocated for that child within 20 school days. Once they have been allocated a school place via the Fair Access Protocol, arrangements should be made for the child to start at the school as soon as possible*
- *In the event that the majority of schools in an area can no longer support the principles and approach of their local Fair Access Protocol, they should initiate a review with the local authority. There should be a clear process for how such a review can be initiated within each Fair Access Protocol. The existing Fair Access Protocol will remain binding on all schools in the local area until the point at which a new one is adopted.*

**Other useful reference links:**

[Fair Access Protocols: Guidance for school leaders, admission authorities and local authorities – August 2021](#)

**3. Pupils considered in the Protocol:**

**Statutory Categories;**

- a) *children either subject to a Child in Need Plan or a Child Protection Plan or having had a Child in Need Plan or a 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*
- 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 FAP in accordance with paragraph 3.10 of the Code <sup>1</sup>*
- k) *children for whom a place has not been sought due to exceptional circumstances*
- l) *children who have been out of education for 4 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 this has not been accepted*
- m) *previously looked after children for whom the local authority has been unable to promptly secure a school place*

**In all cases categories will not apply to a looked after child, or a child with a statement of special educational needs or Education, Health and Care Plan naming the school in question, as these children must be admitted.**

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<sup>1</sup> Governing Bodies are required to refer such ICAFs to the Pupil Admissions manager with relevant supporting evidence to confirm that the school has a particularly high proportion of children with challenging behaviour or previously excluded children and evidence from the child’s previous school and/or other professional agency to show the additional support that was in place for the child and that the child has had a significantly high number of suspensions, **within 5 school days of receipt**, to enable the local authority to establish if the case is considered appropriate to be considered for a Fair Access Placement

#### **4. Children Looked After by the local authority (LAC) and children who have previously been Looked After (PLAC),**

LAC **will not** be included in the Fair Access protocol and these children must be admitted and must always be admitted to the preferred school/academy requested by the parent/carer. This applies to all schools regardless of status. Local authorities are expected to secure a school place promptly for such children and for admission authorities to cooperate with this.

In recognition of the challenges for schools in admitting Children Looked After (LAC) the school should notify the local authority when the child is placed on roll and the relevant fair access tally credit will be applied. If the pupil is a recently permanently excluded pupil (category d), the relevant funding may also be claimed.

All references to previously looked after children in the Code mean such children who were adopted (or subject to child arrangements orders or special guardianship orders) immediately following having been looked after and those children who appear (to the admission authority) to have been in state care outside of England and ceased to be in state care as a result of being adopted.

In most cases, use of the FAP should be unnecessary for Previously Looked After Children (PLAC). Local authorities are expected to secure a school place promptly for such children and for admission authorities to cooperate with this.

#### **5. Behaviour and Attendance Collaboratives (BACs)**

BACs operate outside of the Fair Access Protocols and follow the core principles that support the approach of securing learning places for pupils: the health, happiness and success of all children in the community is a collective responsibility. BACs share information around learning and behaviour, share resources, staff and expertise in a genuine partnership based on integrity, equality and ambition and make joint decisions about managed moves particularly those relating to more complex cases. BACs will report on in year admissions and managed moves agreed for the Fair Access Panel to take into consideration when placing a child. All schools and Ethos Academy Trust are represented by a member of staff with delegated responsibility to make decisions at the meeting. The Head Teacher is the core member and determines representation for their school, ensuring continuity of membership and a commitment to timetable that person to attend.

It may not be in a child's best interest to move schools in year therefore the home school/academy is always requested to liaise with the parent/carer of the pupil seeking a new school/academy to discuss concerns and BACs are encouraged to discuss if a managed move may be more appropriate in these circumstances if this is agreed by the parent/carer.

#### **6. Fair Access Panels**

There are two age-related panels - primary (5-11) and secondary (11-16).

The **Primary** fair access admissions panel consists of;

- 3 representative headteachers from the primary sector one of which will chair the panel meeting.
- A representative of Ethos Academy Trust
- A representative from the Day 6 Provider
- A senior officer from the learning and early support service
- A representative of the admissions team
- Clerk to the panel
- For other children, a representative from Education Safeguarding APS team or representative relative to the category of the child.

The primary Fair Access Panel will meet virtually or in person half termly and more often as and when required to support timely pupil placements.

Primary headteachers are invited to observe if they wish to and/or volunteer to become part of a pool of headteachers to serve on the panel.

For consistency, one headteacher panel member from the previous panel will be asked to Chair at the following panel meeting.

The **Secondary** fair access admissions panel consists of;

- 3 representative headteachers from the secondary/middle sector one of which will chair the panel meeting
- A representative of Ethos Academy Trust
- A representative from the Day 6 Provider
- A senior officer from learning and early support service
- A representative of the admissions team
- Clerk to the panel
- For other children, a representative from Education Safeguarding APS team or representative relative to the category of the child.

The secondary Fair Access Panel will meet virtually or in person every 3 weeks in term time or as often as and when required to support timely pupil placements.

Secondary Headteachers are invited to observe if they wish and/or volunteer to become part of a pool of headteachers to serve on the panel.

For consistency, one headteacher panel member from the previous panel will be asked to Chair at the following panel meeting.

## 7. Operation

[The School Admissions Code \(2021\)](#) confirms that all schools/academies share a collective responsibility to ensure that vulnerable groups of children are admitted on an equitable basis to a suitable school as quickly as possible. This approach prevents a small number of schools/academies being under pressure to admit pupils who have a high level of need. The Fair Access Protocol requires all academies, community, free, voluntary aided, voluntary controlled and trust schools in Kirklees to take part and abide by the content and spirit of the agreement, no admission authority can opt out.

The Fair Access Protocol applies to pupils who live in Kirklees, pupils living in other local authority areas will be covered by their home local authority fair access protocol.

Fair Access admissions panels of headteachers, supported by local authority officers and other relevant agency professionals, will ensure the equitable placement of pupils and monitor the operation of this protocol.

The protocol will ensure that no school/academy, including those with available places is asked to take a disproportionate number of children who have been permanently excluded.

Fair Access Protocols should not be used as a means to circumvent or delay the normal in-year admissions process. A parent /carer has a statutory right to apply for a place as an in-year admission at any point and has a statutory entitled to an admission appeal once per academic year per school/academy if a place cannot be offered because the school is full in the year group.

Requests for In Year admissions will continue to be processed at school/academy/local authority level. It is already agreed locally by all schools/academies that applications for in year admissions will be submitted to the Pupil Admissions team **within 48 hours (2 days) of receipt**. The majority of in year admissions will be processed without recourse to the Fair Access Protocol. This complies with the provisions of [the School Admissions Code](#) which envisages

that the Fair Access Protocol will be used only in circumstances where a parent/carer of a child has not secured a place under the agreed In year admission process.

There is no duty for panels to comply with Parent preference however parents/carers will be asked to name up to three preference schools, in order of preference. This will happen at a meeting with a relevant professional who will offer impartial advice and guidance and provide data and information about placements made at schools/academies under fair access (in the last 3 terms) in order to highlight that any preference school/academy may not be able to receive further placements at that time. Parents/carers should also be informed that schools within a reasonable distance to the home address if not included within their preferences, will also be considered by the Panel unless the pupil is currently on roll at that school.

Schools/academies will not refuse to admit a pupil who has been denied a place at a previous appeal if the protocol identifies that school/academy as the one to admit the child.

Schools/academies will not refuse to admit a pupil who has had a failed managed move at the school if the protocol identifies the school/academy as the one to admit the child.

Where it has been agreed that a child will be considered under the Fair Access Protocol, a school place must be allocated for that child **within 20 school days**. Once they have been allocated a school place via the Fair Access Protocol, arrangements should be made for the child to start at the school as soon as possible.

## 8. Placement Process

The clerk to the panel will consult with the schools/academies (electronically) that have been named by the parent/carer and any nominated by the local authority a minimum of **5 school days** before a panel meeting. Notified schools/academies may offer, in writing (electronically), an acceptance if the school/academy is willing to offer the child a place or provide any extenuating circumstances which constitutes a refusal for not being able to accept a pupil into the school/academy or into a given year group.

When considering the placement of pupils the Fair Access Panel will always operate;

- To meet the best interests of the pupil
- To enable all schools to play their part in supporting hard to place pupils
- To share good practice and alternative options
- To seek placements for pupils who have been permanently excluded
- To ensure places are allocated equitably
- To challenge schools who do not adhere to the Fair Access Protocol
- To ensure the local authority and schools/academies are working in partnership when seeking admission for pupils via the Fair Access Protocol.
- To ensure that information about pupils is provided to schools/academies and support is available to pupils to secure their effective integration into school.

When considering the placement of pupils the Fair Access Panel will always take into account;

- the receiving school's permanent exclusion, fair access and other placement tally's
- parent / carer preferences
- the distance and impact of travel arrangements from the pupil's home address
- any previous serious breakdown in relationship between the school/academy and the pupil/family,
- where the family do not agree with the religious ethos of the school/academy,
- the potential of the child to meet entry requirements for selective schools/academies,
- the data and information relating to pupils placed as well as the school context so no school/academy is requested to admit numbers of children disproportionately
- factual extenuating circumstances that are put forward by possible receiving schools/academies.
- Other professional evidence/advice received from external groups/agencies

For each placement, the local authority will provide information to inform and support the panel to make decisions.

The information for each placement will include;

- nearest schools/academies to the child's home address (minimum of 6)
- distance from home including public transport/driving/walking arrangements.
- OFSTED categories of schools being considered
- Parent preferences (maximum of 3)
- % Of pupils with EHCP
- number on roll in the school and relevant year group
- other exceptional circumstances provided to the local authority by schools/academies during the consultation/placement process
- information about pupil involvement with any other professional agencies as known

Consultations may need to extend beyond Parent preferences and the six nearest schools in order to ensure fairness and equity of placements where schools in particular areas are experiencing higher demand for fair access placements and/or if class size legislation applies for primary placements at KS1.

The circumstances of the individual pupil, in terms of what is best for them, must be considered; whether they are ready for mainstream schooling and, if so, which mainstream school will be best able to meet their needs. Fair Access Protocols avoid an inflexible approach, where schools/academies are routinely expected to admit the next child in line without any consideration of other factors. The allocation of pupils will be equitable with no one school/ academy being required to take a disproportionate number of challenging children.

Reintegration plans by the relevant Day 6 Provider for permanently excluded pupils should be drawn up at an early stage. In general, pupils should not be reintegrated to mainstream schools/academies unless they are ready and schools/academies should not be required or pressured into taking a pupil until any behavioural problems have been assessed, suitably addressed and the pupil ready to take the step back into a mainstream setting.

Additional help is offered to schools/academies to reintegrate some pupils, for example, Ethos Academy Trust teachers continuing to work with the pupil when they have returned to mainstream school or a dual registration arrangement where, for a short period of time, the pupil spends part of the week in Reach or Engage Academy (part of Ethos Academy Trust) and part in the school/academy.

Admission arrangements will be formally amended such that schools/academies will admit a hard to place pupil under the scheme even if over the Published Admission Number (PAN)/Admission Limit as identified within the protocol. Any such an admission will not prejudice any admission appeal.

Schools cannot cite oversubscription as a reason for not admitting a pupil under the Fair Access Protocol. Hard to place pupils should be given priority for admission over others on a waiting list or awaiting an admission appeal.

## **9. Admission following a panel decision**

Schools will be accountable for complying with the decision of the Fair Access Panel

In order to quickly and efficiently re-integrate children into mainstream schooling, the normal guidance not to admit mid-term is waived. Schools/academies must respond to requests for admission to ensure that access to education is secured quickly.

The Local Authority will notify the school/academy of the date by which the parent/carer of the pupil should be contacted and the date the pupil is to be on the roll by at the placement school. The school/academy will be



accountable for the young person from that date. Contact with parent/carer will be made within **5** school days following the placement to arrange admission and the pupil will be placed on their roll within **10** school days - Notice is deemed to have been given on the same day if sent electronically, or on the second working day after posting if it is sent by first class mail.

#### Additional support for the integration of pupils

- Kirklees Local Authority provides comprehensive support to schools, pupils and parents/carers through specialist learning support.
- Ethos Academy Trust is part of specialist learning support and provides full-time or part-time education and support to pupils whose needs can currently not be met in mainstream education alone. They work very closely with mainstream schools/academies and support education of these pupils through full-time or part-time placement in Ethos Academy Trust, additional support in the mainstream setting, outreach work or, for pupils in key stage four, full-time or part-time placement in alternative provision.
- Reintegration into mainstream will be considered when there is a realistic chance of success, reintegration will be carefully planned in close cooperation with the receiving school/academy and supported by the service, the support programme can include reasonable adjustments to be made by the receiving school.
- When a school/academy has been allocated an eligible pupil, the school/academy can contact the service shown in the table for support/advice (Appendix 1) and set up a pre-admission meeting to construct a support programme for the pupil and the school/academy. At the end of that meeting, a support programme should be written up, clearly stating who is going to do what in terms of reintegration support.

For all pupils under the scope of this protocol, as for any other pupil in their care, schools/academies can make a referral to the single point of referral (SPR) after the child is put on roll should they feel they cannot meet the needs of these pupils without additional input from specialist learning support. All referrals are considered by the panel within a week and the SPR panel will allocate support where it considers it to be necessary.

## **10. Disputes**

In the unlikely event that a school/academy is unable to accept a decision;

There is no right of appeal for a community or voluntary controlled school where the Local Authority is the admission authority. The child must be admitted.

If an own admission authority Maintained school refuses to admit a pupil assigned under this protocol after the panel has fully considered the case, they must inform the local authority **within 7 calendar days**. The local authority will inform in writing (electronically) the school of their intention to direct to admit the pupil giving 7 calendar days notice. The governing body has 7 calendar days to reconsider and respond. On the 8<sup>th</sup> day the Service Director-Learning and Early Support, Learning and Skills, will direct the school to admit the pupil under his/her powers in Section 96 of the Schools Standards and Framework Act 1998. The Governing Body has the right to appeal the direction by submitting a case to the Schools Adjudicator within 15 calendar days of the direction. The final decision will be made by the Schools Adjudicator.

If an Academy refuses to admit a pupil assigned under this protocol after the panel has fully considered the case, the academy will inform in writing (electronically) the local authority **within 7 calendar days** of the panel notification. The Local Authority informs the academy trust of their intention to request a direction from the Secretary of State. The academy trust has 15 calendar days to reconsider and respond in writing). On the 16<sup>th</sup> day the Service Director-Learning and Early Support, Learning and Skills will make the application to the ESFA for a decision by the Secretary of State. When reviewing an academy direction case, the Education & Skills Funding Agency will act on behalf of the Secretary of State. The final decision will be made by the Secretary of State.

If a parent / carer is not happy with the school/academy allocated by the Fair Access Panel the pupil must be placed on roll at the placement school by the date given by the local authority and the parent can apply in the normal way for a school/academy of their preference. If the in year application is refused because the preference school/academy is full the parent/carer can then appeal in the normal way for admission but during this time must be put on roll at the placement school until such time that another school place is secured. Parents/carers have a

statutory right to be admitted to a school/academy that has places available therefore, this statutory right cannot be overridden by the fair access protocol.

In recognition of the challenges for schools in admitting the above children the new receiving school should notify the local authority when the child is placed on roll and the relevant fair access tally credit and the funding if the child is a Permanent Excluded pupil (category d) may be claimed.

Fair Access Panels will not re-consider placement decisions that are made unless evidence is made available that the panel could not have been made aware of by the school/academy or other professional group/agency directly involved with the child during the consultation process prior to the fair access placement.

## 11. Data and Information

Fair Access Panel will;

- Monitor the pattern of exclusions and re-integrations of pupils;
- Review the operation of this protocol with headteacher groups.
- Annually at the September Fair Access Panel meeting, monitor the number of pupils placed and the time they were out of school and the reasons for this.
- Monitor the allocation of pupils to schools/academies, whether each school/academy has received its “fair” share and how to resolve any perceived inequities in the system;

### Tally for permanently excluded pupils (PX) – (category h)

- Each tally reduction / increase will apply for 3 terms and go on a half termly basis (inclusive).
- The establishment of a Kirklees Fair Access protocol started in 2006 and all primary and secondary schools/academies had a level score of 0 at that time on the PX tally.
- Every placement of a permanently excluded pupil **increases** the PX tally by **1** from the date of allocation i.e. the date the panel make the decision to place the pupil.
- Every pupil leaving the school/academy **reduces** the PX tally by **1** from the date the panel places the permanently excluded pupil.
- If a pupil who has been placed at a school/academy is taken off roll within the 3 Term rolling programme, the school/academy tally will be adjusted.

These numbers will be over a 3 Term rolling basis and the data for all schools/academies will be updated and circulated after each panel in the interests of transparency.

The local authority will provide additional data for each school/academy relating to **all other categories of fair access placements** at each panel meeting and the previous year’s Fair Access placement data will be made available.

Behaviour and Attendance Collaboratives (BACs) are requested to make data relating to managed moves and In Year applications for all schools/academies available to the Pupil Admissions Manager on a termly basis so that this information can be shared and taken into consideration by the Fair Access Panel.

## **12. Funding via agreement by Schools Forum - for permanently excluded pupils (category h)**

The principle underpinning financial support is that the funding should always follow the pupil.

**Please see appendix 2 which sets out the details about financial support in relation to Fair Access placements. This will be reviewed annually and/or in line with any changes to school funding and legislation.**

- The pupil placement tariff will be transferred to the receiving school/academy to support reintegration. These payments are reviewed and agreed locally by Schools Forum in consultation with KSHS, KPH and senior officers in the authority. Pupils with an Education Health and Care Plan or a Statement of Special Educational Needs or Looked after Children (should they be excluded) are **not** placed by Fair Access Protocols.

Any balance of AWPU received and sums for pupils with an Education Health and Care Plan /Statement of Special Educational Needs are retained by the local authority to;

- fund the support of Kirklees pupils who have been excluded by another authority
- transfer to Ethos Academy Trust to fund personalised packages of support when a Day 6 place is not available or is not appropriate.

## **13. Governance**

The operation of the Kirklees Fair Access protocol will be monitored by the Places Access and Inclusion Committee which reports to the Education and Learning Partnership Board. The committee meets termly and will consider the operation of the protocol annually. The committee will receive information about the number of permanent exclusions and the number of pupils placed under each fair access category. The committee will oversee schools' compliance with the fair access protocol and if necessary refer schools/academies causing concern to the Education and Learning Partnership Board who will raise with the appropriate accountable bodies, including the Office of the Schools Adjudicator and/or the Regional Schools Commissioner on behalf of the Secretary of State.

In the event that the majority of schools in an area can no longer support the principles and approach of the local Protocol, all the school heads should initiate a review with the local authority. The existing Protocol however remains binding on all schools up until the point at which a new one is adopted

## **14. Key Contacts**

### **Pupil Admissions Team**

Telephone: 01484 225007 Email: [pupiladmissions@kirklees.gov.uk](mailto:pupiladmissions@kirklees.gov.uk)

### **Ethos Academy Trust:**

Knowles Hill Road, Dewsbury Moor, Dewsbury, West Yorkshire, WF13 4QS

Telephone: 01924 469170 Email: [ethosoffice@eat.uk.com](mailto:ethosoffice@eat.uk.com)

### **Children Missing Education (CME) Team**

Telephone: 01484 221000 Email: [missing.children@kirklees.gov.uk](mailto:missing.children@kirklees.gov.uk)

### **Education Safeguarding APS Team (EHE and Business Support for Fair Access)**

Telephone: 01484 221000 Email: [education.safeguardingservice@kirklees.gov.uk](mailto:education.safeguardingservice@kirklees.gov.uk)

## Appendix 1 - Fair Access Categories Table

(\*Fair Access Panels will not admit over PAN if class size legislation applies for primary placements at KS1)

Category	Who refers to FAP	Action	Support	Funded category y/n	Tally - PX/ Other category
a) children either subject to a Child in Need or Child Protection Plan (or had one within 12 months of referral to FAP)	Education Safeguarding APS Service/Pupil Admissions	Parent/carer preference will be made known to the panel to be taken into account and those schools and other schools within reasonable distance from the home to be considered Fair Access Panel: Can admit over PAN*	Pupil Admissions/ Education Safeguarding APS Service Support organises and provides advice, guidance and support as appropriate and where necessary	N	other category
b) children living in a refuge or in other relevant accommodation at the point of referral to FAP	Education Safeguarding APS Service/Pupil Admissions	Parent/carer preference will be made known to the panel to be taken into account and those schools and other schools within reasonable distance from the home to be considered Fair Access Panel: Can admit over PAN*	Pupil Admissions/ Education Safeguarding APS Service Support organises and provides advice, guidance and support as appropriate and where necessary	N	other category
c) children from the criminal justice system	Youth Offending Team  Ethos Academy Trust	Parent/carer preference will be made known to the panel to be taken into account and those schools and other schools within reasonable distance from the home to be considered Fair Access Panel: Can admit over PAN*	Youth Offending Team/ Ethos Academy Trust organises and provides advice, guidance and support as appropriate and where necessary	N	other category
d) children in alternative provision who need re-integration into mainstream or who have been PX'd but deemed suitable for mainstream	Day 6 Provider/AP Provider  Education Safeguarding Inclusion APS Service/Pupil Admissions	Parent/carer preference will be made known to the panel to be taken into account and those schools and other schools within reasonable distance from the home to be considered Fair Access Panel: Can admit over PAN*	Day 6 /AP provider organises and provides advice, guidance and support	Y	PX
e) children with special educational needs, disabilities or medical conditions (but without an Education, Health and Care Plan)	Pupil Admissions/Education Safeguarding APS Service	Parent/carer preference will be made known to the panel to be taken into account and those schools and other schools within reasonable distance from the home to be considered Fair Access Panel: Can admit over PAN*	Pupil Admissions/ Education Safeguarding APS Service Support organises and provides advice, guidance and support as appropriate and where necessary	N	other category
f) children who are carers	Pupil Admissions/ Education Safeguarding APS Service	Parent/carer preference will be made known to the panel to be taken into account and those schools and other schools within reasonable distance from the home to be considered Fair Access Panel: Can admit over PAN*	Pupil Admissions/ Education Safeguarding APS Service organises and provides advice, guidance and support as appropriate and where necessary	N	other category
g) children who are homeless	Education Safeguarding APS Service	Parent/carer preference will be made known to the panel to be taken into account and those schools and other schools within reasonable distance from the home to be considered Fair Access Panel: Can admit over PAN*	Education Safeguarding APS Service organises and provides advice, guidance and support as appropriate and where necessary	N	other category

Category	Who refers to FAP	Action	Support	Funded category y/n	Tally - PX/ Other category
h) <b>children in formal kinship care arrangements</b>  (As evidenced by child arrangements order not relating to either birth parent or special guardianship order)	Pupil Admissions/  Education Safeguarding APS Service	Parent/carer preference will be made known to the panel to be taken into account and those schools and other schools within reasonable distance from the home to be considered  Fair Access Panel: Can admit over PAN*	Pupil Admissions/ Education Safeguarding APS Service organises and provides advice, guidance and support as appropriate and where necessary	N	other category
i) <b>children of Gypsies, Roma, Travellers, refugees and asylum seekers</b>	Education Safeguarding APS Service	Parent/carer preference will be made known to the panel to be taken into account and those schools and other schools within reasonable distance from the home to be considered  Fair Access Panel: Can admit over PAN*	Education Safeguarding APS Service provides advice, guidance and support as appropriate and where necessary	N	other category
j) <b>children who have been refused a school place on the grounds of their challenging behaviour and referred to the protocol in accordance with 3.10 of the 2021 School Admissions Code</b>	Pupil Admissions  Following LA consideration of Governing Body <i>see footnote 1 (page 4)</i> request if approved -	Parent/carer preference will be made known to the panel to be taken into account and those schools and other schools within reasonable distance from the home to be considered  Fair Access Panel: Can admit over PAN*	LA/Ethos Academy Trust organises and provides advice, guidance and support where necessary	N	other category
k) <b>children for whom a place has not been sought due to exceptional circumstances</b>	It is for the LA to decide whether a child qualifies to be placed via FAP  Pupil Admissions/  Education Safeguarding APS Service	Parent/carer preference will be made known to the panel to be taken into account and those schools and other schools within reasonable distance from the home to be considered  Fair Access Panel: Can admit over PAN*	Pupil Admissions/ Education Safeguarding APS Service organises and provides advice, guidance and support as appropriate and where necessary	N	other category
l) <b>children who have been out of education for 4 or more weeks where it can be demonstrated there are no places available within a reasonable distance (does not include where place offered and refused)</b>	Education Safeguarding APS Service/ Pupil Admissions	Parent/carer preference will be made known to the panel to be taken into account and those schools and other schools within reasonable distance from the home to be considered  Fair Access Panel: Can admit over PAN*	Education Safeguarding APS Service/Pupil Admissions organises and provides advice, guidance and support as appropriate and where necessary	N	other category
m) <b>Previously looked after children for who the LA has been unable to promptly secure a school place**</b>	Pupil Admissions  ** FAP should not be necessary for PLAC –see note 84 in Admissions Code)	Parent/carer preference will be made known to the panel to be taken into account and those schools and other schools within reasonable distance from the home to be considered  Fair Access Panel: Can admit over PAN*	Pupil Admissions organises and provides advice, guidance and support as appropriate and where necessary	N	other category

## Appendix 2 - Funding arrangements/agreement

In Kirklees we operate a system in addition to that set out by the Department for Education (DfE). This is a local agreement, agreed by all schools to offer more support to those most complex needs pupils as they move from one school to another. It is recognised that permanently excluded pupils being admitted into a new school often require a range of additional support to ensure that the new placement is a success. In the case of Secondary schools this is currently £10,000 and Primary schools it is currently £6,000. These amounts are reviewed annually and agreed locally by Schools Forum in consultation with KSHS, KPH and senior officers in the authority.

According to government legislation when pupils are permanently excluded the LA must deduct from the school budget, the amount within the formula that relates to the age and personal circumstances of that pupil. The charges will be pro rata to the number of complete weeks remaining in the financial year. The funding will then be allocated to the receiving school for the remaining weeks of the financial year.

Following analysis of the operational guide from the DfE and reviewing the practice of charges over the last few years, this system puts the needs of the young person at the heart of the process. It also means that monitoring of the charges in schools and in the LA will be a transparent process.

Whilst the AWPU and the other personal circumstance related elements of the school budget will be charged for in year pro rata for the remaining weeks in the financial year, the tariff will be charged as one amount and not pro-rated across the financial years.

The system is child focussed and puts the child at the heart of the process with additional funds being transferred with them to assist with their initial additional needs.

Weighting the payment tariff to the school admitting the pupil, based on the reason for permanent exclusion has been considered, however, whilst there is certain merit to the idea of some pupils attracting more funding due to their needs there is also the fact that to administer this it could result in an additional layer of processes to determine the needs and this would be contentious and time consuming.

All charges will be made in the term of exclusion. All payments will be made to the receiving school within the term of admission.

If the pupil placed is of summer leaving age then the charge will be until the 31 July of that year.

Pupils entering Secondary education after a particularly short placement by FAP in a Primary school in Year 6, are still in need of additional support to assist with their transition into a new learning environment so for pupils whose admission to primary is within the last half term of the Summer Term, a proportion of the £6,000 will be paid to the High School when the child is placed on roll to assist with their transition, providing the school the flexibility to provide the child with the best possibility of success.

One outcome of the High Needs Review (HNR) is that all pupils should be appropriately supported in their local school wherever possible. If the placement of our vulnerable children is more adequately supported by this process this should result in more successful admissions in mainstream schools and a reduced need for more alternative/special places.

For this system to be fair and transparent all maintained schools and academies agree the process for the benefit of the pupil.

Academies are funded by academic year however, funding is based on the October census. DfE guidance highlights that all charges/placements should be made within the LA financial year unless a further local agreement can be reached for academies.