



London Borough of Newham

**School Admissions
Fair Access Protocol**

September 2019

Contents	Page
1. Introduction and the law	3 - 4
2. Consultation and review	4
3. Publication	4
4. Scope	4 - 5
5. Identification of pupils for consideration under Fair Access	5 - 6
6. Pupil for consideration under this protocol	6
7. Local definitions	6 - 10
8. Pupil Placement Panel (PPP)	10 - 11
9. Operating principles for successful application of this protocol	11 - 12
10. Fair Access documentation/evidenc	12
11. Considerations for the placement of pupils under Fair Access	12 -13
12. Decision making	13
13. Distribution methodology	13
14. Refusals to admit	13-14
15. Monitoring	15
16. Figures and statistics	15
17. Financial Matters	15-16
Recommended Associated Reading	17
Appendices	18

1. Introduction and the law

All Local Authorities in England must comply with the legislative Code on Admissions in the exercise and discharge of local authority functions in relation to admissions under the School Standards and Framework Act (SSFA) 1998. The SSFA and relevant regulations confers a number of duties which require the LA to carry out different functions at different times of the admissions cycle.

The current Code for School Admissions came into force on 19 December 2014.

This Code imposed mandatory requirements and includes guidelines, setting out aims, objectives and other matters in relation to the discharge of functions relating to school admissions by the bodies listed below:

- Local authorities
- Admission authorities of maintained schools
- Academies and Academy Trusts (this includes maintained schools converted to academies and free schools)
- Governing bodies
- Schools Adjudicators
- Admission Appeal Panels

These bodies have a statutory duty to act in accordance with the relevant provisions of the Code.

The Local Authority has the duty to provide suitable education or otherwise for all children of compulsory school age resident in the borough.

Academies are required by their funding agreement to comply with the Code and the law relating to admissions, though the Secretary of State has the power to vary this requirement where there is a demonstrable need.

The School Admissions Code (3.9) states each local authority **must** have a Fair Access Protocol, agreed with the majority of schools in its area to ensure that, outside the normal admissions round, unplaced children, especially the most vulnerable, are offered a place at a suitable school as quickly as possible. In agreeing a protocol, the local authority **must** ensure that no school - including those with available places - is asked to take a disproportionate number of children who have been excluded from other schools, or who have challenging behaviour. The protocol **must** include how the local authority will use provision to ensure that the needs of pupils who are not ready for mainstream schooling are met.

All admission authorities **must** participate in the Fair Access Protocol in order to ensure that unplaced children are allocated a school place quickly. There is no duty for local authorities or admission authorities to comply with parental preference when allocating places through the Fair Access Protocol.

In order to support schools and officers in complying with these mandatory requirements the LB Newham develops and manages the required local protocols and procedures.

The operation of Fair Access Protocols is outside the arrangements of co-ordinated normal admission rounds and is triggered when a parent of an eligible child has not secured a school place under in-year admission procedures. The protocol must describe the circumstances in which it will be applied and set out how decisions about admissions of vulnerable, hard to place and pupils with challenging behaviour will be made.

The Department for Education states that Fair Access Protocols should not be used as a means to circumvent the normal in-year admissions process. A parent can apply for a place as an in-year admission at any point and is entitled to an appeal when a place is not offered.

It will also be used to ensure that schools do not admit a disproportionate number of hard to place:

i) vulnerable pupils

OR

ii) pupils with challenging behaviour.

This protocol has been formulated to ensure its compliance with the School Admissions Code and Equality Act 2010. Therefore seeks to ensure that there is no discrimination against pupils, parents or carers because of their sex, race, disability, religion or belief and sexual orientation or pupils who are pregnant or undergoing gender reassignment. The exception to the discrimination provisions for schools that existed under previous legislation is admissions to single-sex schools.

All LA officers and school staff must adhere to this protocol.

Internal and external auditors may complete monitoring exercises on an ad hoc basis to ensure full compliance, fairness and transparency.

2. Consultation and review

This protocol is developed in consultation with the LB Newham School Admission Forum and reviewed annually in the summer term to ensure compliance with statutory and local requirements. Where statutory changes are required these will be applied in accordance with legislations which maybe outside our normal timeframe for change.

The Newham Education Partnership Board are consulted on the recommendation of the School Admissions Forum <https://www.newham.gov.uk/Pages/ServiceChild/Admissions-Forum.aspx>.

All head teachers are consulted throughout the process via the monthly Pupil Placement Panels, Newham Association of Primary Head teachers (NAPH), Newham Association of Secondary Head teachers (NASH) and the Newham Education Partnership conference.

The protocols will be reviewed annually in the summer term and any changes will come into force in September for the start of the new school year unless statutory changes are required before this date.

3. Publication

This protocol will be published:

- London Borough of Newham website (school admissions)
- Via links from the websites of all academies and schools located within Newham

Copies are available on request:

- By email from pupil.services@newham.gov.uk
- By calling the Council on 020 3430 2000

4. Scope

The law does not allow the Fair Access Protocol to be applied to the co-ordinated arrangements for the normal points of entry / transition, which are:

- Reception
- Infant to junior transition
- Primary to secondary transition

- Transition to an Atypical school (schools who admit outside the normal points of standard school transition points (Studio Schools and University Technical Colleges).

Pupils can be placed in either a mainstream school or Alternative Provisions, depend The protocol mainly applies to In-Year admissions to mainstream

This protocol seeks to ensure that, outside the normal admissions round, unplaced children, especially the most vulnerable, are offered a school place as quickly as possible. The protocol, therefore, provides for the efficient processing of applications and identification of children who may be particularly vulnerable. Such vulnerability may be due to a child having missed a significant period of formal schooling, or having had difficulties in their previous school setting which have not been satisfactorily resolved. Where, for example, a child has unresolved issues in relation to challenging behaviour, the Local Authority, through the exercise of this protocol, will take steps to offer a suitable education setting and to avoid allocating a disproportionate number of previously excluded children, or those with challenging behaviour, to any Newham school.

The law does not allow the protocol to be applied for children:

- With an Education Health and Care Plan (EHCP);
- Who are currently Looked After. These children must be placed using the relevant statutory and local processes.

Eligible categories of children in the groups above are set out in Section 6.

5. Identification of pupils for consideration under Fair Access

Pupils for possible consideration under this Fair Access protocol may be identified via:

- Information supplied by the applicant via the non-mandatory sections of the In-Year school admission common application form (CAF) – and then only where consent is given;
- Pupils' previous school, pupil referral unit, alternative provision and/or local authority;
- Health services or support professionals, as relevant, in the case of children with SEN, disabilities or medical conditions;
- Elective Home Education services;
- Behaviour Support services;
- Police or the Youth Offending Team

This list is not exhaustive.

Other than for permanently excluded pupils, to comply with the Admission Code and General Data Protection Regulation (GDPR), information cannot be shared with parties other than by the new named school other than for Fair Access purposes. This means information cannot be requested by Pupil Services or an Own Admission Authority school at the application process, it can only be requested post offer – unless the applicant requests otherwise.

If, during the admission process, information is received by the named school that may warrant the pupil being considered under Fair Access, admission may be deferred under 3.12 of the Admissions Code pending discussion at the next Pupil Placement Panel (See Pupil Placement Panel terms of reference).

Extract from School Admissions Code

*3.12 Where a governing body does not wish to admit a child with challenging behaviour outside the normal admissions round, even though places are available, it **must** refer the case to the local authority for action under the Fair Access Protocol. This will normally only be appropriate where a school has a particularly high proportion of children with challenging behaviour or previously excluded children. The use of this provision will depend on local circumstances and **must** be described in the*

*local authority's Fair Access Protocol. This provision will not apply to a looked after child, a previously 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.*

In some instances, a school may wish to admit a pupil but refer the case to the Placement Panel for possible recognition of the admission in Fair Access figures.

All identified cases will be considered at their age relevant Pupil Placement Panel. This are normally monthly during term time but may be fortnightly where necessary.

In case of the need for an emergency placement that cannot await the next sitting of the Placement Panel (for example, during the long gap between the last meeting of the summer term and the first of the autumn term) it will be possible for a Virtual Panel made up of officers and head teachers to consider the case.

6. Pupils for consideration under this protocol

Vulnerable, hard to place and pupils with challenging behaviour who are to be considered under this protocol will match mandatory criteria set by Government or additional local criteria agreed within the London Borough of Newham.

Group 1 - these are specified as mandatory in the Department of Education's School Admissions Code - February 2012:

- a) Children from the criminal justice system or Pupil Referral Units who need to be reintegrated into mainstream education;
- b) Children who have been out of education for two months or more;
- c) Children of Gypsies, Roma, Travellers, refugees and asylum seekers;
- d) Children who are homeless;
- e) Children with unsupportive family backgrounds for whom a place has not been sought;
- f) Children who are carers;
- g) Children with special educational needs, disabilities or medical conditions (but without a Statement or Education Health and Care Plan).

Group 2 – other unplaced pupils considered by Newham Children's and Young People's Services as vulnerable, hard to place or with challenging behaviour, who may include:

- a) Children whose behaviour in their previous education setting was seriously challenging without satisfactory interventions being completed;
- b) New arrivals into Newham whose needs may require additional resourcing in a non-mainstream setting;
- c) Children returning to Newham following a short period (less than three full school terms) overseas or elsewhere in the UK whose behaviour was previously seriously challenging and for whom satisfactory interventions were not completed;
- d) Children resident in Newham on roll at a school in another LA now seeking a school place in their home Local Authority , whose needs may warrant additional resourcing in a non-mainstream setting;
- e) Children seeking a school place following a short period (less than three full school terms) of Elective Home Education whose behaviour was seriously challenging and for whom satisfactory interventions were not completed.

For behaviour to be deemed 'seriously challenging', children would generally have had multiple fixed term exclusions in their last twelve months in their previous setting, or would have departed their previous setting in circumstances which may have led to exclusion, had they not left.

7. Identification and placement information

Looked After Children

For the purposes of school admissions and fair access, looked-after children are children who are looked after by an English local authority within the meaning of section 22 of Children Act 1989, and previously looked-after children are those who were looked after by a local authority in England and leave care due to an adoption, special guardianship or child arrangements order. This does not include children adopted from 'state care' outside England.

For looked after children but not previously looked after the Local Authority may direct any maintained school, including those who are their own admission authorities, to admit a child in care if that school is best suited to his or her needs, even if that school will then be above their published admission number. Where preference for admission to an academy is not granted, the case may be referred to the Secretary of State for direction.

Where the parent/carer's preferred school is a faith school and the child is of another faith or no faith, in most instances the Local Authority will not direct the preferred school to admit, nor refer the matter to the Secretary of State.

Looked After cannot be considered under Fair Access and will not be discussed at the Pupil Placement Panel unless they are permanently excluded.

Children from the criminal justice system or Pupil Referral Units

Children from the criminal justice system or attending PRUs who are ready to be reintegrated back into mainstream education will automatically be referred to the Pupil Placement Panel in order to identify suitable placement. In such cases, the panel will be provided with a risk assessment in addition to the standard information in order to assist them in making a decision about whether mainstream schooling is a suitable option

The Youth Offending Team will ensure a fully completed 'In-Year' Application Form is submitted by the parent/carer and co-signed by the YOT Worker at least 10 days prior to the child's return home.

All pupils returning from the criminal justice system will have suitable educational provision identified and a place reserved by the Pupil Placement Panel in advance of their return to their home in Newham.

Children being reintegrated into mainstream education from a Pupil Referral Unit (PRU)

Pupils returning to education following a placement by the LA a PRU will automatically be referred to the Pupil Placement Panel in order to identify a suitable placement. This will not apply to children on a short term directed placement at a PRU arranged by their school or education provider.

Permanently excluded pupils: pupils who have been permanently excluded from school and are being re-integrated to mainstream education will be placed using the LB Newham's Exclusions and Alternatives to exclusion protocol (September 2018) which forms part of the suite of protocols guide decision-making by the Pupil Placement Panel.

Children out of education for more than two school months

Child Missing Education without a named education provision for more than two months will automatically referred to the Pupil Placement Panel to identify a suitable placement with the exception of Looked After Children and those with an Education Health Care plan.

Where a child with a named school is unable to access a start date their case will be referred to the Children Missing Education Strategic Panel.

This does not apply to children who have been offered/allocated a school place by Pupil Services or the Pupil Placement Panel are refusing to take up that placement or those who are on roll at a school and refusing to attend or have poor attendance

Gypsy, Roma and Traveller children

For admissions purposes, these are defined by Newham as children who have lived in a mobile home, traveler housing or caravan for the last 2 years and whose families are planning to continue to do so for at least a further 12 months from the point of application. Group considered under this element of the protocol are:

Irish travelers,
Scottish or Welsh travelers,
Roma people (including British Romany Gypsies),
New Age travelers
Travelling show people.

To ensure these are admitted to school with the minimum of delay and to maximise what may be a short term period of education, Newham's 'fast track' process will be implemented.

Homeless children

For admissions purposes only children who family meet the statutory definition of homeless and who Newham Social Care identify as needing additional support with a school placement will be referred to the Pupil Placement Panel. All other homeless children will be placed under the standard admissions processes.

Homelessness/threatened homelessness

A statutory definition can be found: Part VII of the Housing Act 1996, as amended by the Homelessness Act 2002, sets out the duties owed by English local housing authorities (LAs) to someone who is homeless or threatened with homelessness and the Homeless Person Reduction Act 2017.

Children with special educational needs, disabilities or medical conditions

Children with an Education Health and Care plan and children for whom the statutory assessment process has been initiated cannot be considered at the Pupil Placement Panel. These children must be placed via the statutory consultation process.

Children with High Needs Funding (HNF) will not be considered at the Pupil Placement Panel if the child requires a Resource Provision placement. These will be placed via the SEN local processes.

Children with disabilities or severe medical conditions, for whom the Local Authority determines that only one or a small number of schools located in the borough can meet their needs, will not be considered at the Pupil Placement Panel but the placements will be reported and recorded in the figures for the named school.

Arrangements for pupils with SEN or disabilities follow the Special Educational Needs and Disability Code of Practice: 0-25 years, which sets out that schools:

- Must consider applications from parents of children who have SEN but do not have an Education Health and Care plan (EHC Plan) on the basis of the school's published admission criteria as part of normal admissions procedures;

- Must not refuse to admit a pupil who has SEN, but does not have an EHC plan because they feel unable to cater for their special educational needs;
- Must not refuse to admit a pupil on the grounds that they do not have an EHC plan.

Pupils with significant physical difficulties

The Pupil Placement Panel will not consider these cases as they will be placed by Pupil Services in partnership with SEN officers. Where a school is asked to admit over number to accommodate a child's physical access needs the case will be reported at PPP and included in the figures. Allocation of a suitable school for a pupil with significant physical difficulties will be made with reference to the following 4 categories:

- **Category 1:** full physical access - physical access to whole curriculum and the building including access to an exercise space for physiotherapy and a hygiene room
- **Category 2:** significant physical access - physical access to the majority of the curriculum, the building may have an accessible toilet or an exercise space for physiotherapy but no hygiene room
- **Category 3:** partial physical access- physical access into the premises for meetings, limited access around premises and no physiotherapy space or hygiene room
- **Category 4:** no physical access - no significant access

Medical conditions

Where it has been identified that a child has a medical condition that may impair their ability to access education or manage the school day, staff from the 0-25 SEND Service will assess the child's needs, where necessary making a home visit, and then write a report for consideration before placement. These children will not be considered at the placement panel but will be included in the figures.

Children with more than 10 days of fixed term exclusions in the last twelve months

An application for a school place in Newham using the normal In-Year process may be referred to the PPP for consideration under Fair Access arrangements where:

- an applicant for a school place has detailed their child's exclusion totals as being more than 10 days in the last twelve calendar months; or

Pupil Services, or the preferred school, establish prior to admission, that exclusion information may have been omitted or deliberately withheld from the common application form.

Children who are carers

Children identified by Social Care as formal 'carers' will be considered under this protocol and their placements will be included in the figures. Self-identified carers will not be considered without confirmation of their carer status from Social Care.

Religious Affiliations

Pupils who are identified as having a proven strong religious affiliation will be matched where possible to a suitable faith school – but this will not override the decision of the Panel.

Children returning to mainstream education after a short period of Elective Home Education;

Children who were on roll at a LB Newham mainstream school, but were removed from roll as their parent elected to educate them at home, may be considered under the Fair Access arrangements. If after starting elective home education, the parent submits an In-Year application for them to return to mainstream education. The pupils behaviours history prior to being electively home educated with decide as to whether the child will be placed under standard admissions or fair access.

Children whose families are applying for them to return to mainstream education after a short period of education overseas or in another local authority (children who lost a school place due to an extended holiday are not considered in this group);

Children who were on roll at a LB Newham mainstream school but were removed from roll as their parent advised they were being educated overseas. It applies where a short time after moving abroad the parent advises the child has returned to live in Newham and submits an In-Year application for them to return to mainstream education in Newham. The pupils behaviours history prior to being educated outside of Newham will decide as to whether the child will be placed under standard admissions or fair access.

8. Pupil Placement Panel (PPP)

The Pupil Placement Panel (PPP) is the Local Authority's recognised body for considering the placement of 'hard to place', vulnerable children and those with challenging behaviour which includes those identified as Fair Access under this protocol, as set out above.

The Pupil Placement Panel membership includes all head teachers, a wide range of LA officers and other professionals including the Police.

Panels are at least monthly during term time, one for primary and one for secondary-aged pupils.

Further details regarding the Pupil Placement Panel are included in the parallel 'Pupil Placement Panel Terms of Reference' and 'Exclusions and Alternatives to Exclusion' protocol which can be found on Newham Connect or on request at bss@newham.gov.uk

9. Operating principles for successful application of this protocol

- All schools are required to comply with this protocol;
- All schools located in Newham share a collective responsibility with the LA to ensure swift admission to a suitable school or alternative provision for all children of compulsory school age who are resident in Newham who do not have a school place or who do not otherwise match the criteria for consideration, as described above;
- No school, including those with available places, is required to take a disproportionate number of children who have been excluded from other schools, or who have challenging behaviour;
- PPP discussions and decisions should reflect a fair and transparent balance between finding a place quickly (e.g. in an undersubscribed school) and finding a place that is appropriate for the child;
- It is recognised that the LA has a duty to provide suitable education for its residents of compulsory school age for whom an application is submitted, irrespective of the location of a child's current education provider;
- All fair access placement decisions should take into account the needs of the child and those of the community of any proposed school;
- When choosing suitable placements for pupils under this protocol, due consideration should be given to the additional challenges faced by schools who have been identified by Ofsted as being 'inadequate' or 'requiring improvement', where that has led to a 'notice to improve' or a school has been in special measures within the preceding 12 months;
- Head teachers, or their representatives, making submissions regarding Fair Access cases should provide full, honest and current information to enable the PPP to make its decisions effectively;

- The named school will admit the pupil within a maximum 10 school days of being formally notified of the Placement Panel's decision and will contact the family to arrange an admission meeting or multi professionals meeting within two school days that may or may not require the attendance of the family;
- Schools will not cite oversubscription as a reason for not admitting pupils legitimately placed under the protocol;
- Pupils who are legitimately placed by the PPP will be given priority for admissions over others on a waiting list who may currently have a higher waiting list position. Placements using the Fair Access protocol are outside of the waiting list rules.
- All parties will strive to ensure that there are no barriers to admission and will recognise that refusal to admit a child legitimately placed under the terms of this protocol may result in appropriate action being taken against a maintained school. In the case of academies, the need for further action would be referred to the Education and Skills Funding Agency.
- Schools will not refuse to admit a child who has been denied a place at that school at independent admission appeal if, through the legitimate application of this protocol, the Panel identifies that school as the one to admit the child;
- Due regard will be given to the Infant Class Size regulations, noting that there are some circumstances where a child may be admitted into an infant class which is full as an 'excepted pupil';
- PPP decisions cannot override the statutory right of parents to express a preference/make an application for a particular school, nor their right of an independent appeal where a place at such a school is refused;
- Where possible, for continuity of education, when a Newham child has been educated at home for a short period they may be offered a mainstream place at the school they departed before starting their elective home education. This decision will be made taking into account on their behaviour record before leaving the school.
- Where possible, for continuity of education, when a Newham child has been educated overseas or in another LA for a short period, they will be offered a mainstream place at the school they departed before moving abroad. This does not apply where the family took unauthorised leave or extended a period of authorised leave which resulted in the child losing their school place. This decision will be made taking into account on their behaviour record before leaving the school.
- All members of the Pupil Placement Panel are empowered to contribute to decisions regarding Fair Access pupils. Additional attendees (for example, where a school sends a second member of staff for training purposes) do not participate in discussion or decision-making.

10. Fair Access documentation/evidence

In all cases, either Pupil Services or the named school must send the CAF and associated documentation to the Clerk of the Pupil Placement Panel by the specified deadline which, unless otherwise stated, is 5 school days before each meeting.

he clerk will then circulate all documentation to members by the end of the week prior to the meeting. In exceptional cases, where there is good reason for lateness and where it may be possible to avoid a child

being out of school unnecessarily, the Chair will determine whether to add cases submitted after the deadline.

11. Considerations for the placement of pupils under Fair Access

The prime objective of this Fair Access Protocol is to ensure that excluded, vulnerable and challenging children are placed quickly in a suitable school, with no school being expected to admit a disproportionate number of these children. To that end, all discussions and decisions are to be open and transparent.

The following questions must be borne in mind by Pupil Placement Panel members when determining placements for the children under their consideration.

- Does the child meet one of more of the statutory or local Fair Access criteria
- Have parents', carers' and children's views been duly considered and taken into account in the Pupil Placement Panel's decision, accepting that their preference will not automatically override the decision of the Panel.
- Is the child ready for placement in a mainstream school or do they require a short term assessment placement in an alternative provision in order to access suitable intervention strategies to assist with school readiness.
- For children returning to formal education from short term Elective Home Education or short term education overseas (not extended holidays) or another LA, would returning to their last school in Newham best meet the continuity of their education?
- Will good quality alternative provision provide a better long-term solution, or a more suitable next stage, for a child deemed not ready to return to a mainstream environment?
- Have genuine concerns such as a previous serious breakdown in relationship between the school and the family, or a strong aversion to, or desire for, the religious ethos of the school, been taken into account when reaching a placement decision?
- Are there strong, proven links between a child under consideration and a potential school that should lead the panel to remove that school from consideration due to health and safety concerns?
- Has the panel taken into account any objection by a proposed school to admitting a child based on the current difficulties they have in that child's year group and, if so, has evidence been reviewed which would justify such objection?
- Are the child's travel arrangements to any new provision practical and sustainable, such as to maximise school attendance and minimise the need for home to school travel assistance and /or transport?
- For young people undertaking GCSE courses, has consideration been given to the child's current subjects, syllabuses and projections, in order to identify a school that can provide a best match, or might alternative provision offer a brighter prospect in relation to completing Key Stage 4 and preparing for Key Stage 5?
- Are there exceptional circumstances which may warrant the deferment of a placement decision (for example, to obtain multi-professional assessments or undertake risk assessments) and the implementation of interim educational provision, pending receipt of fuller advice or information?

By the end of each meeting, a decision must be reached in respect of each child under discussion. Where necessary a vote will be taken, only those present can vote with one vote per school. However, if there is a split decision or the panel cannot make a decision, the Chair must determine the outcome using sound reasons/rationale aligned to this protocol and previous Pupil Placement Panel case-histories. It is possible the outcome may be for a child to be placed in a school or alternative provision who are not present at the meeting.

12. Decision making

In all cases the sitting members of the PPP must decide for each pupil presented as Fair Access:

- Do the majority agreed that the pupil meets the requires of LB Newham Fair Access protocol?
- If no, the pupil must be placed under standard admissions and the named school must admit
- If yes, does the child meet one of the statutory categories of Fair Access?
- Is yes, which category?
- If no, which of the local Fair Access categories does this pupil meet?

Each element of the decision making must be recorded in the Fair Access figures.

13. Distribution methodology

The Department for Education requires Local Authorities to ensure that children with challenging behaviour are fairly distributed. Therefore the Pupil Placement Panels will, where possible and appropriate allocate fair and proportionate distribution among the schools. Distance from home and parental preference will always be taken into consideration but are not overriding factors .

14. Outcomes

The possible outcomes available to the Panels for pupils under Fair Access are:

- Placement at a named mainstream school under standard admissions (not recognised by the panel as Fair Access);
- Placement at a named mainstream school as a statutory Fair Access placement
- Placement at a named mainstream school as a local Fair Access placement
- Dual registration with a mainstream school and alternative provision;
- Full-time placement in alternative provision with a scheduled review for re-integration into a named mainstream school;
- Full-time alternative provision;
- Refusal to name a new provision where it is clear that to do so would prejudice the efficient education or efficient use of resources in a school or where insufficient in-school additional support has been provided by the current Newham School;

Following a decision by the PPP, the parent / carer will receive an offer letter from Pupil Services for mainstream placements or from Behaviour Support where Alternative Provision is agreed. A copy must be sent securely to the named provision, school or both where Alternative Provision precedes admission to the named school.

In all cases where parental preference has not been approved, the letter must include information regarding the parent's statutory right of an independent appeal for any preferred school where they have been refused a place. Section 94 of the SSFA 1998 states that parents (and in some circumstances children) may appeal against a decision to refuse admission to a school. The exception is where the pupil has been twice permanently excluded.

15. Refusals to admit

Where a school is identified by Pupil Services as part of the normal In-Year admission process, and where such a school believes that the pupil meets one or more of the criteria set out in Section 7 above, the school may refer the case to the Pupil Placement Panel, setting out why the case should be discussed under Fair Access procedures by the panel. However, if the panel disagrees with the reasons for referral, or determines through exercise of this protocol that the school which brought the referral is the most appropriate setting for the pupil, the originally proposed allocation may be upheld.

Extract from Admissions Code 2.12

*An admission authority **must not** withdraw an offer unless it has been offered in error, a parent has not responded within a reasonable period of time, or it is established that the offer was obtained through a fraudulent or intentionally misleading application. Where the parent has not responded to the offer, the admission authority **must** give the parent a further opportunity to respond and explain that the offer may be withdrawn if they do not. Where an offer is withdrawn on the basis of misleading information, the application **must** be considered afresh, and a right of appeal offered if an offer is refused.*

Extract from Admission Code 3.12

*Where a governing body does not wish to admit a child with challenging behaviour outside the normal admissions round, even though places are available, it **must** refer the case to the local authority for action under the Fair Access Protocol. This will normally only be appropriate where a school has a particularly high proportion of children with challenging behaviour or previously excluded children. The use of this provision will depend on local circumstances and **must** be described in the local authority's Fair Access Protocol. This provision will not apply to a looked after child or or Education Health and Care plans needs naming the school in question, as these children **must** be admitted.*

Extract from Admission Code 3.13

*Admission authorities **must not** refuse to admit a child thought to be potentially disruptive, or likely to exhibit challenging behaviour, on the grounds that the child is first to be assessed for special educational needs.*

If information obtained by the named school, which was not available on the CAF or was not supplied by the current/previous school, has resulted in the named school being misled, a referral can be made to the Pupil Placement Panel.

This means if a child is offered a place at a school under the normal admission arrangements or via the Pupil Placement Panel and it is subsequently found that the offer had been based on fraudulent or deliberately misleading information provided by the family or the child's current/previous school, and if the child has not yet been admitted to the new school, the matter can be referred to the Pupil Placement Panel for consideration under Fair Access procedures. Whilst this may, or may not, lead to a different school being named, it would enable the admission to be credited to the Fair Access figures of the receiving school, if appropriate.

Where a named school fails to admit a pupil in good time, a local authority officer will quickly mediate in order to resolve the matter with the school. Where this fails and other avenues are exhausted, and to avoid a further delay to the child's education, the Local Authority will initiate the appropriate formal direction process as outlined in the Admission Code (pages 31 and 32) and the DfE flowchart below.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/389388/School_Admissions_Code_2014_-_19_Dec.pdf

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/275581/directions_flow_chart.pdf

Extract from DfE advice

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/275580/fair_access_protocols_departmental_advice.pdf

The process for requesting that the Secretary of State direct an Academy to admit a child

Local authorities and Academies are expected to mediate between themselves before a request is made to the Secretary of State to direct an Academy to admit a child.

Where a local resolution cannot be found, it is the responsibility of the local authority and the Academy to document the case for and against admission.

When reviewing an Academy direction case, the Education Funding Agency will act on behalf of the Secretary of State to consider whether due process has been followed in applying the provisions of the Fair Access Protocol.

In requesting a direction from the Secretary of State, the local authority must provide:

- evidence that the provisions of the Fair Access Protocol have been applied in a fair and appropriate manner;
- the Academy's reasons for refusal; and,
- the local authority's response.

The local authority should send the information using the specified template to the Education Funding Agency. On receipt of a request to direct, the Education Funding Agency will inform the school that it has received a request for a direction. The letter will request that the Academy provide any evidence other than that already received that the process has not been properly applied within seven calendar days.

Where the Secretary of State is asked to consider a direction, the decision will be made on the basis of the papers provided, taking into account:

- whether the local Fair Access Protocol has been applied appropriately;
- the arguments of the Academy and local authority, whether the authority has considered the arguments for refusal and why it still considers the Academy to be the appropriate provision for the child;
- whether the Academy has been asked to accept a disproportionate number of children under the Fair Access Protocol compared to other schools.

16. Monitoring

- Pupil Services are responsible for establishing and maintaining clear and transparent Fair Access figures in order to underpin the fairness of the decision-making process;
- Fair Access statistics will be shared with head teachers and all Pupil Placement Panel members at least termly in order to monitor the performance and effectiveness of the protocol.

17. Figures and statistics

Pupil Services will maintain Fair Access information using the CYPS education management information database.

Figures and statistics will be tabled on an annual basis at the end of the academic year, and from time to time during the year.

The baseline for the 2019/20 academic year will be the carried forward position from the close of the 2018/19 academic year

18. Financial Matters

Fair Access admissions do not attract any additional funding.

Schools are not required to fund the placement of Fair Access pupils into an Alternative Provision where the panel determines that a child cannot be admitted to a mainstream school for at least one academic term. Where the Pupil Placement Panel agree an Alternative process is the recommended placement, the local authority will fund the placement.

Where a school is named and it is agreed that the pupil may need early intervention work to ensure a smooth transition into school, the school may choose to direct a pupil to Alternative Provision at the school's expense.

Recommended Associated Reading

Department for Education – School Admission Code (December 2014)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/389388/School Admissions Code 2014 - 19 Dec.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/389388/School_Admissions_Code_2014_-_19_Dec.pdf)

The School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements)(England)Regulations 2012

<http://www.legislation.gov.uk/uksi/2012/8/made>

Department for Education – Appeals Code (February 2012)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/275897/school admission appeals code 1 february 2012.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/275897/school_admission_appeals_code_1_february_2012.pdf)

Department for Education – Fair Access: Principles and Process (November 2012)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/275580/fair access protocols departmental advice.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/275580/fair_access_protocols_departmental_advice.pdf)

School and Standards Framework Act1998

<http://www.legislation.gov.uk/ukpga/1998/31/contents>

Children Missing Education statutory guidance September 2016

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/550416/Children Missing Education - statutory guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/550416/Children_Missing_Education_-_statutory_guidance.pdf)

Department for Education – Behaviour and Discipline in School Guidance for Governing Bodies (January 2017)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/463484/Behaviour and discipline in schools guidance for governing bodies.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/463484/Behaviour_and_discipline_in_schools_guidance_for_governing_bodies.pdf)

Department for Education – Behaviour and Discipline in School Guidance for Head Teachers and School Staff (January 2016)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/488034/Behaviour and Discipline in Schools - A guide for headteachers and School Staff.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/488034/Behaviour_and_Discipline_in_Schools_-_A_guide_for_headteachers_and_School_Staff.pdf)

Getting Simple Things Right - Charlie Taylor's Behaviour Checklists

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/571640/Getting the simple things right Charlie Taylor s behaviour checklists.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/571640/Getting_the_simple_things_right_Charlie_Taylor_s_behaviour_checklists.pdf)

School attendance Guidance for maintained schools, academies, independent schools and local authorities

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/564599/school attendance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/564599/school_attendance.pdf)

School attendance Guidance for maintained schools, academies, independent schools and local authorities

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/564599/school attendance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/564599/school_attendance.pdf)

Appendices

Appendix 1 – Fair Access Overview

Appendix 2 – DfE Fair Access Direction Protocol