Making a Fresh Start

Fair Access Protocol 2017

A Fair Access Protocol provides an agreed way for schools, Academies and the Local Authority to work collaboratively and in a co-ordinated way to address the needs of children requiring a school place – many of these will be vulnerable children who may have previously been considered as hard to place and who need speedy admission. The Protocol takes into account the needs of the child and those of the school. The Protocol sets out the expectations of all parties.

The aims of the Fair Access Protocol are to:

- Secure appropriate education provision for vulnerable young people not on the roll of a school or Alternative Provision Pupil Referral Unit or those pupils needing a fresh start as quickly as possible
- Reduce the amount of time that young people spend out of school or missing from educational provision
- Ensure that schools take their fair share of pupils through fair and transparent procedures and monitoring arrangements
- Avoid the need for directed admissions to schools

Southend on Sea’s Fair Access Protocol was last published in 2013 with a small revision in April 2016. The protocol has been updated to be in line with the 2014 School Admissions Code and the non-statutory guidance from the DfE ‘Fair Access Protocols, Principles and Processes’ November 2012. The 2017 revision has been achieved after extensive consultation with schools outlining recommendations from the consultation feedback, some of which have been trialled from the summer term 2017, with no objections from schools or partners.

The revised protocol is attributed to the existing effective partnership working between local schools, services and the Local Authority to secure appropriate education provision for all statutory school aged children and improve the life chances of all vulnerable children. The continuing success and effectiveness of the Fair Access Protocol, is reliant upon the full engagement and collaboration of all schools, Academies and identified services.

1. Legislative Framework

The School Admissions Code 2014 outlines the principles and scope of Fair Access Protocols and clearly states that all admission authorities must comply with the mandatory requirements of the code and admissions legislation. All schools and Academies must participate in the local authorities Fair Access Protocol to ensure that all unplaced young people, who reside in the Local Authority, particularly the most vulnerable, are offered a place within suitable provision as quickly as possible.

The School Admissions Code 2014 section 3.9 - 3.15 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.

The operation of Fair Access Protocols is outside the arrangements of co-ordination and is triggered when a parent of an eligible child has not secured a school place under in-year admission procedures.

All admission authorities, including any that did not agree to the protocol, 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.

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.

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.

A Fair Access Protocol must not require a school automatically to take another child with challenging behaviour in the place of a child excluded from the school.

The list of children to be included in a Fair Access Protocol is to be agreed with the majority of schools in the area but must, as a minimum, include the following children of compulsory school age who have difficulty securing a school place:

a) children from the criminal justice system or Alternative Provision 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; and
g) Children with special educational needs, disabilities or medical conditions (but without a statement or Education, Health and Care Plan).
2. Main Principles

The following principles underpin the use of the Southend protocol and are necessary for the scheme to be successful:

- All schools, Academies and the Local Authority working together, must strive to ensure that every child can access a local Southend school that meets their needs
- The protocol applies to all schools regardless of agreement with the protocol
- All Primary and Secondary Schools, Academies and the Alternative Provision Pupil Referral Unit will participate. It is binding on all schools.
- The protocol does not apply to Special Schools
- All schools will be treated in a fair, equitable and consistent manner
- Schools will continue to admit pupils under normal in year admission arrangements
- Due regard to the admission criteria of the school will be given when making a placement decision such as academic selection or faith
- The placement will be based on criteria and the information available regarding the needs of the individual child
- There is no duty to comply with parental preference when allocating places through the Protocol but it is expected that the wishes of the parents are taken into account. Due regard will however be given to any specific parental religious convictions when considering a faith school.
- The Fair access Protocol should not be used as a means to circumvent the normal in year admissions. A parent can apply for a place at a school as an in year admission at any point and is entitled to an appeal if a place cannot be offered. If there are places at the school and the parent has requested this school in their application, then under normal in year admissions, the Admissions Code states that the child must be admitted without delay.
- Where a governing body does not wish to admit a child with challenging behaviour outside the normal admissions round, even though places are available, they can only refuse admission and refer cases to the Fair Access Panel in the following circumstances:
  - Where schools can evidence that to do so would prejudice the provision of efficient education or the efficient use of resources and have written a refusal letter to parent stating their reasons (Section 86 of the SSFA 1998). In cases where the child is currently unplaced, refusing schools MUST refer the case to the Local Authority. Refusal under this category should only be applied in exceptional circumstances.
  - Where a child has been permanently excluded from two or more schools for a period of two years from the last exclusion (does not apply to children who were below compulsory school age at the time of the exclusion, or children who have been re-instated following a
permanent exclusion or decision overturned by an Independent Review Panel)
  o The school has been judged by Ofsted as inadequate or requires improvement in the past two years
  o Schools who can evidence exceptional circumstances demonstrating significant challenges within the year group of application. Examples of such circumstances are outlined in Appendix 1.

- Schools cannot say that they are oversubscribed in any year group or refuse if they are asked to admit under the Protocol. Fair Access placements take priority for admission over others on a waiting list. Schools may be expected to go over numbers (KS2 onwards) in a year group in order to secure the best placement. Any genuine concerns about the admission expressed by the school will be taken into consideration e.g. previous involvement or serious breakdown in relationships between the school and the family
- Only in exceptional circumstances would a school refuse admission under the Protocol – for example recently admitting several children under the Protocol, although the Fair Access Panel will have taken these factors into account before making their decision.
- Schools will not normally be asked to admit two pupils in quick succession in the same year group
- It is expected that all parties will act with a sense of urgency to identify a school place for a child who needs one under the Protocol. Schools will be expected to respond to requests by the Local Authority to admit under the Protocol within 7 calendar days and that the pupil will be placed on roll and admitted within 15 school days of the decision of the Fair Access Panel
- Schools will receive information about the child prior to admission under the Protocol either from the previous school or Alternative Provision Pupil Referral Unit (if local), or a Southend Support Service using the fully completed Fair Access Referral Form with signed consent by the parent/s. If the child was previously placed within an alternative authority, every attempt will be made by the referrer to collect information from other authority schools and provision from the referrer.
- The Fair Access Panel should give consideration to the education provision being put into place while the pupil is waiting for admission to school.
- All schools will receive regular updates on numbers of children admitted under the Protocol and Headteachers can scrutinise panel decisions. There will be an annual report to the Office of the Schools Adjudicator regarding numbers of admissions under the Fair Access protocol and the effectiveness of the protocol as well as an annual report to Admissions Forum which will also include local Managed Moves.
- Performance will be measured on:
  o The number of children without a school place who are admitted to school within 15 school days of being heard at the Fair Access Panel.
  o The number of schools referring unplaced children within 20 school days from receiving a school admission application
3. **Categories for Referral – children covered under Fair Access Protocol**

Resorting to the Fair Access Protocol should not be automatic when admission to school can and should be dealt with under normal admission arrangements, nor should it wait for a panel to be convened if it can be dealt with more quickly. The Protocol does not apply to Looked After Children or children with an Education, Health and Care Plan or statement of Special Educational Needs as their school will be named within their plan.

The protocol considers the following categories of children of compulsory school age, who have had difficulty in securing a school place through normal admissions and are:

1. Young People returning to school from the criminal justice system who need to be reintegrated into mainstream education. Schools are advised to retain young people on the roll of the school if the sentence is 8 months or less given that the sentence is likely to end after 4 months in these cases. The young person should return to their school.

2. Permanently excluded pupils or reintegrating from the Alternative Provision Pupil Referral Unit or who move into the area having previously been permanently excluded from a school in another Local Authority area.

3. Pupils who are at the point of permanent exclusion for whom a Managed Move is agreed as an alternative to the permanent exclusion or who are reintegrating from the Alternative Provision Pupil Referral Unit. These referrals are not heard at Fair Access Panels as negotiations are carried out directly between schools. They do however count towards a school’s Fair Access Admission (refer to section on Managed Moves).

4. New arrivals in Borough

5. Children who have been out of education for 2 months or more including those returning to school from Elective Home Education and those refused under section 86 of the SSFA 1998.

6. Children of Gypsies, Roma, Travellers, refugees and asylum seekers

7. Homeless children

8. Children who are young carers

9. Children with special educational needs, disabilities or medical conditions (but without a statement or Education, Health and Care Plan).

10. Children from an unsupportive family background for whom a place has not been sought (these children are usually identified and referred by either Early Help Family Support or Social Care as a child identified as Missing from Education)

11. Children subject to multiple moves of schools

12. Children who have recently been removed from the roll of a Southend School to be electively home educated (2 months or under) but now requesting a school place.

Criteria 12 is a new criteria as a response to a recent increase in parents reporting that they had been encouraged by schools to electively home educate to avoid a permanent exclusion. Schools must not seek to persuade parents to educate their children at home.
as a way of avoiding excluding the pupil or because the pupil has a poor attendance record. In the case of exclusion, schools must follow the relevant legislation and have regard to the statutory guidance. If the pupil has a poor attendance record, the school should seek to address the issues behind the absenteeism and use the other strategies available to them.

The DfE has identified that the practice of ‘off-rolling’ pupils through pressure on parents to withdraw them for home education is a significant contributor to the increase in numbers of home educated children, particularly those aged 14-16. These findings are also represented locally from parent feedback. In many cases it is likely that the parent will be unable to provide proper home education, even if willing to attempt this. This category has been added to discourage schools applying pressure on parents to educate children at home, as well as discourage parents using home education as a way of avoiding managing concerns within school with little or no intent to educate their children.

Any referrals received to Fair Access where the child has recently been on the roll of a Southend school (within 2 months) and removed due to a decision to electively home educate, will be directed back to the last school that they were on roll at. Panel members will consider the individualities of the case and reasons for removal from roll to EHE but unless there is evidence of extenuating circumstances, the panel will direct the placement back to the last known school prior to EHE.

Referrals must be made using the Southend Fair Access Panel Referral Form (Appendix 1).

Referrals should be fully completed, the protocol explained fully to parents and must contain the signature of the parent. Any unsigned referrals will not be accepted and heard at the panel. It remains the referring schools responsibility to collate and provide information swiftly. If schools are experiencing difficulties in engaging parents, early requests should be made to the Local Authority to identify a support service to engage the family and support consent to sharing information. The only exception to not having the parental signature is where a school has refused admission on grounds of prejudice. In these instances the school must supply the refusal letter stating the case will be referred to the Fair Access panel and the referral form and parental consent will be obtained through a named support service.

Referrals must be accompanied by the original signed and dated admissions application and must be referred to the Local Authority within 20 school days of receipt of the admissions application. Any referral made after this time will not be accepted and panel will direct the school to admit the child. This includes those that originally refused the application in writing to the parent. This has been reinforced due to previous delays in schools referring to Fair Access and increasing the length of time a vulnerable child is out of school.

Referrals can be made by schools meeting the requirements outlined in the Principles (section 2) and Referral Criteria (section 3) of the Southend Fair Access Protocol.

In addition to schools, referrals can also be received from: the Southend Alternative Provision Pupil Referral Unit (Victory Park Academy); the School Admissions Team;
Social Care; the Youth Offending Service; and the Early Help and Family Support Service from a Child Missing Education enquiry. Any other service identifying a child out of school, meeting any of the above categories, should in the first instance refer the matter to the Early Help Family Support Service as a ‘child missing education’.

4. **Criteria for decisions about Placements**

   The criteria to inform decisions about placements will take account of the following:
   - The number of fair access admissions to the school over the last 12 months
   - The number on roll in the year group and in the school overall
   - Which school has had the most recent Fair Access admission – taking turns where possible
   - Evidence of any known challenges in the relevant year group e.g. large number of pupils with particular emotional, social and behavioural difficulties or known associations between pupils (schools are required to provide evidence of these challenges for reasons to be accepted)
   - The school’s admission criteria e.g. ability, faith
   - Any previous breakdown of relationships between parents and the school
   - Distance to school for the pupil – supported transport will be allocated if the distance criteria are met or evidence of exceptional circumstances where distance creates a barrier to attending the school
   - Any other contextual information that is relevant for example, siblings or specific challenges for schools in Ofsted categories.

   **Schools are required to bring evidence of the above criteria relating to the relevant year group, where they believe considerations should be given before deciding upon a placement.**

5. **Operation of the protocol**

   Regular attendance at fair access panel meetings with full collaboration from all schools is paramount. All invited schools should commit to attending meetings on a regular basis including schools that require selection by academic ability, gender or faith. Where usual named representatives are unable to attend, every effort should be taken to provide an alternative senior representative of the school. The involvement of Headteachers (or senior leaders) in the decision making is key to the continued success of the Protocol. School leaders are best placed to assess need and secure the best place for a child. The following arrangements have been agreed:

   a) A Fair Access Panel will meet monthly during term time. The panel will be chaired by a senior officer of the Local Authority. The panel will oversee the Fair Access arrangements and agree placements under the Protocol. The panel will also scrutinise officer decisions that may have taken place in between panel meetings. The panel will also monitor applications and admissions of Managed Moves in Borough.

   b) There will be one Borough wide panel consisting of:
• Primary referrals and placement decisions
• Secondary referrals and placement decisions
• Primary managed move referrals and outcomes presented by Victory Park Outreach Service
• Secondary managed move referrals and discussion

c) Decisions outside of panel meetings will only be made in exceptional circumstances by the Group Manager Access and Inclusion and only where there is full consent by the identified education provider. This allowance will only be used in exceptional circumstances and in the interest of reducing the time that children are out of school.

d) The Fair Access Panel Core Membership will consist of:
- The Group Manager Access and Inclusion
- The Executive Headteacher (or senior representative) for Southend’s Alternative Provision Pupil Referral Unit (Victory Park Academy)
- 2 named Secondary Headteachers (or senior leaders)*
- 3 named Primary Headteachers (or senior leaders) representing the East, Central and West locations of the town*
- 1 Early Help and Family Support Manager
- 1 Educational Psychologist
- 1 Youth Offending Service representative
- 1 Senior representative of Social Care
- 1 Senior representative from the Behaviour Outreach Service
- Senior representation from other registered alternative providers (YMCA Free School)
*Nominations for core school membership will be reviewed annually and identified via SOPHA and SOSHA

In addition to the core membership the following schools will be invited to every meeting:
• all primary Headteachers (or named senior leaders) local to the child’s home address (usually < 2 mile radius).
• all secondary Headteachers (or named senior leaders)

Decisions will be made at meetings regardless of representation from schools. Schools will be expected to respond to the placement within seven calendar days. Placement decisions remain the sole responsibility of school representatives. All other providers and services are in attendance to provide information, advice and guidance and contribute to plans for supporting transition to the identified placement. Where possible and after considering the placement criteria, schools will place their own school forward for placing the child. Voting will be avoided and only used where no offers to place have been made.

Once a school has been identified to take a Fair Access admission, it is expected that schools and support services will act with a sense of urgency to agree an
individual support plan and admit the child. All schools, including Academies, are expected to respond to requests to admit a child under the Fair Access Protocol within seven calendar days. It is expected that a school or Academy will agree a starting date for the child or set out its reasons for refusal in writing to the Local Authority within 15 calendar days.

6. Managed Moves

Southend LA continues to be committed to preventing any child from being permanently excluded and promoting schools to work together to look for alternative strategies to avoid exclusion.

A managed move is a one of a range of strategies available to schools to address repeated behavioural difficulties and can be offered as either a fresh start or an alternative to permanent exclusion, (please refer to the separate protocol for Managed Moves to avoid a permanent exclusion). The Southend Fair Access Protocol identifies two types of Managed Move.

1. Fresh Start (not at the point of permanent exclusion)

This is where a school and parents feel that a change of school might benefit the pupil as a strategy to address issues such as poor behaviour or persistent noncompliance with school policy – it is not for the pupil who is at the point of permanent exclusion. In this case the Managed Move will be arranged directly between Headteachers with the consent of parents. A minimum 6 week trial period is agreed between the two schools. Only in exceptional circumstances should schools terminate a managed move before the end of the 6 week trial. An example of such a circumstance could be the behaviour of the child was serious enough to warrant an exclusion in accordance with the schools behaviour policy. Terminating managed moves before the end of the 6 weeks would be in exceptional circumstances rather than the norm.

A minority number of cases may require a longer trial period, for example the child had been excessively absent due to ill health or a family bereavement has occurred. Any decision to increase the trial period should be agreed at a review meeting and based upon exceptional individual needs.

The pupil remains on roll at the home school until the end of the trial period. If the move is successful the transfer becomes permanent. Any transfer of AWPU funding is agreed between the 2 Headteachers. This type of move does not count towards the receiving school’s Fair Access total. (Please refer to page 14 for admission under a managed move to a selective school)

If the move is unsuccessful, then the pupil should return to their home school. The home school should not issue a permanent exclusion based upon an unsuccessful managed move. If the child is at the point of permanent exclusion and a managed move is considered to avoid this outcome, please refer to section 2.

Recommended practice for Fresh Start Managed Moves:
- Schools to report to PLT Outreach Service when considering a managed move (rather than after the event).
• PLT Outreach Service will support schools with all managed move meetings, support pupil planning, integration/transition plans and practical support with the young person to increase chances of success.
• Integration/transition plans although individual to the pupils needs should share some consistency from school to school.
• All schools to provide clear positive expectations for the child and parent during managed move meetings and reinforce these expectations on the child’s plan.
• Key areas of concern, active/current support services and previous/current school plans (PSP, behaviour plans, ISP etc.) to be shared with the receiving school prior to the managed move meeting and any new integration plan.
• An agreed probation period (suggested 6 weeks), with extensions only being considered for exceptional circumstances (illness, family bereavement, significant family issue etc.)
• If the managed move is unsuccessful the pupil should return to their home school. Schools should involve key services, school staff, parents and the child in a new integration plan with the emphasis on identifying barriers and desired outcomes to avoid further exclusions.

2. Managed Move at the Point of Permanent Exclusion (APEX)

This is when a pupil is at the point of permanent exclusion and a change of school is offered as an alternative option. (Pages 14-15 detail the process for this type of managed move in more detail). In this case the Headteacher should discuss the case and the strategies tried in the school with the Local Authority officer and or Victory Park Academy prior to the decision to permanently exclude. Once arranged, this type of Managed Move will continue to be counted as a fair access admission to recognise schools collaborative working in this area but should only be considered after a full range of strategies have been tried including consideration of any special educational need, referrals to Early Help Family Support and Behaviour services. There is no trial period under this model and the pupil goes immediately on roll at the new school. In this scenario the School Forum (now known as Education Board) agreed in January 2013 that the balance of AWPU should transfer either to the Local Authority to place back in the DSG if the pupil is to move to the Alternative Provision Pupil Referral Unit for a period of time, or to the receiving school in the same way that it would if it had been a permanent exclusion. This is to support the pupil's reintegration plan into the new school. In accordance with the School and Early Years Finance Regulations, from 2017 all schools will be required to transfer the balance of all pupil led funding to either the Local Authority or receiving school. Support services may also allocate additional support for the pupil and/or family for a short period of time to support transition.

To avoid any delay in moving these children, who under normal circumstances would be permanently excluded, Headteachers should continue to approach schools directly and begin discussions for an immediate move onto another schools roll. Schools experiencing difficulties in arranging a managed move of this type should approach the Head of School for the Alternative Provision Pupil Referral Unit (Victory Park Academy)
to support negotiations. Looked After children and those with an active Education Health Care Plan cannot be considered for a managed move. For LAC and EHCP, social care and/or SEN should be contacted and decisions to change placements must be made in collaboration with services and the family.

All managed moves should be reported to the Behaviour Support Services at the point of consideration to support transition plans and success. All managed moves will be collated by the service according to school and final outcome and reported back to monthly Fair Access meetings. In addition to this, all managed moves at the point of permanent exclusion will be reported to the Local Authority in order to count towards a schools total for fair access placements.

7. **Year 11 pupils requiring a school place**

   Each year there are a number of new arrivals in Year 11 and there is a need to clarify the admission arrangements for some of these young people who may be considered “hard to place”.

   In many cases pupils will have moved with their families for good reason and may be able to fit into existing programmes or courses in schools. In this instance these pupils are not hard to place. Normal admission procedures should apply and they should be offered a place as quickly as possible. For Year 11 pupils who arrive in the Autumn term, offering a school place should be possible with schools able to arrange a suitable programme.

   For young people who arrive into the authority post January and whose needs may be complex with little or no previous preparation for GCSE, may be admitted directly to the Southend Alternative Provision Pupil Referral Unit where they would be assessed and an appropriate offer of Alternative Provision planned with the aim of securing good progression routes into post 16 learning.

   In all cases, Connexions advice would be needed to ensure appropriate progression routes into post 16 learning and reduce the likeliness of a child becoming NEET.

   Year 11 new arrivals with EAL will be directed towards those schools that have developed particular expertise in this area.

   Permanent exclusions of Year 11 pupils should be avoided and alternative provision sought by the school.

8. **Review of the Protocol**

   There will be an annual review of the Protocol incorporating feedback from panel members. Any changes will only occur after consultation with schools (this includes Academies).

   Government guidance suggests that, in the event that the majority of schools in the area no longer support the principles and approach of the Fair Access Protocol, that all school Headteachers should initiate a review with the Local Authority. The existing Protocol will remain binding on schools until a new one is adopted.
9. The Local Authorities Powers of Direction

Directing a school to admit a pupil is always a last resort and the Local Authority would strive to resolve difficulties locally through discussion, negotiation and mediation and through listening to the case for refusal that the school or Academy is putting forward. Before considering a direction, the Local Authority would also need to ensure that the provisions of the Fair Access Protocol have been applied in a fair, consistent and appropriate way and that the request to admit the pupil was a reasonable one.

All schools, including Academies, are expected to respond to requests by local authorities to admit a child under the Fair Access Protocol within seven calendar days. Before deciding to issue a direction to a voluntary aided or foundation school, the Local Authority will consult the governing body of the school. If following consultation the Local Authority decides to direct, the LA will inform the governing body and Headteacher of the school. The Local Authority will follow the same process when considering requesting a direction for a child to be admitted at an Academy through the Fair Access Protocol.

The governing body of a maintained school can appeal by referring the case to the Schools Adjudicator within 15 calendar days. Similarly, Academies will agree a starting date for the child or set out its reasons for refusal in writing to the Local Authority within 15 calendar days (providing contact details to cover any approaching bank holiday or holiday periods).

If the case is referred to the Adjudicator, the Adjudicator may either uphold the direction or determine that another maintained school must admit the child. The Adjudicators decision is binding.

If an Academy has not agreed a start date for the child within 15 calendar days, the Local Authority will, after considering any reasons provided for refusal, apply for a direction from the Secretary of State via the Education Funding Agency. The Secretary of State has the power under an Academy’s Funding Agreement to direct the Academy to admit a child.

For further information, please refer to the DfE’s Fair Access Directions Flow Chart via the below link:
Introduction

A Managed Move is one of a possible range of strategies where there have been difficulties with a pupil's behaviour over a period of time. For those pupils who are not at the point of permanent exclusion but where a fresh start in a new school could have a positive influence on improved behaviour and attitudes please refer to pages 10-11. This section is only for managed moves as an alternative to a permanent exclusion. Only these Managed Moves are counted as a Fair Access Admission.

A Managed Move should only be proposed with the full knowledge and co-operation of all the parties involved: parents/carers, pupil and Headteachers. An APEX Managed Move would only be explored when difficulties in school suggest that the pupil is at the point of permanent exclusion after a full range of strategies have been tried. A managed move is not

- A suggestion that parents should look for a new school “in the best interests of the child”
- Where parents/carers exercise their legal rights to express a preference for another school

Schools must not seek to persuade parents to educate their children at home as a way of avoiding an exclusion. If a child is at the point of permanent exclusion, schools must follow the statutory guidance. The only alternative where a decision has been reached to permanently exclude is to offer a managed move at the point of permanent exclusion (APEX).

Parents often ask “should I agree to a Managed Move instead of a permanent exclusion?” The result is the same – the child moves school. Parents often prefer a Managed Move as it avoids having a permanent exclusion on their child's school record and the feelings of rejection associated with that. However if parents want to challenge the position and refuse a managed move and the permanent exclusion proceeds, then they would have the opportunity to have their case heard by governors. They would also have the right of appeal to an Independent Review Panel. There is no right of appeal against a Managed Move. However it is important to stress that a Managed Move should be seen as a planned and positive fresh start.

Criteria and Evidence for a Managed Move at the Point of Permanent Exclusion (APEX)

The school would be expected to demonstrate that the criteria for a permanent exclusion had been met and that the evidence for this would be the same as that required by a governor's discipline committee meeting to hear a permanent exclusion. Support strategies and processes to identify any barriers to learning
should have been explored fully prior to deciding to permanently exclude. Strategies could include the following, although this is not an exhaustive list, and much depends on how the school organises its in-school learning and behaviour provision:-

- On or off site learning units
- Nurture arrangements
- Change of class/tutor groups
- Alternative curriculum/timetable
- Internal seclusion
- Risk assessment and plans
- An Early Help and Family Support Assessment should have been sought and reviewed with evidence of support from other agencies involving parents and the child.
- Educational Psychologist and/or other services' reports such as Behaviour Support Services and evidence where the school has acted upon advice
- The pupil has been identified as School Support (SEN) for 2 terms with evidence of reviewed IEPs or pastoral and/or behaviour plans reviewed with advice from the Educational Psychology Service and/or Behaviour Support Service implemented
- Restorative justice approaches
- Possible short term preventative placement at the Southend Alternative Provision Pupil Referral Unit (Victory Park Academy).

However it is also recognised that there may be exceptional circumstances, or a one off incident, when a permanent exclusion is the proposed response to a serious breach of the school's discipline policy or where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school. It may be that in these cases the above strategies may not have been fully implemented but again the evidence should be sufficient to warrant a permanent exclusion.

The Process

1. The Headteacher is advised to discuss the potential permanent exclusion and alternative options with the Southend Alternative Provision Pupil Referral Unit (Victory Park Academy). Any resulting Managed Move after discussion with the Group Manager Access and Inclusion would then be counted under the Fair Access Protocol.

2. The Headteacher explores options and contacts a potential receiving school and PLT Outreach Service.

3. The Headteacher calls a meeting with the parents/carers to discuss the possibility of a Managed Move. The meeting is an opportunity to share information and concerns in an open and non-judgmental way and discuss the move as a positive process. The meeting will aim to:
   - Agree the rationale for the Managed Move, the strategies already put in place and the pupil's response
   - Explore whether any other strategies could be tried
   - Discuss the pupil's strengths
• Explore which mainstream school/Academy might best meet the child's needs and could be approached

4. The identification of a receiving school should take account of:
   • Parental preference where possible
   • Admission criteria for the school
   • Distance from the child's home to the school
   • Recent numbers of admissions by the Fair Access Panel in the year group and whether the year group or class has a disproportionately high number of pupils with challenging behaviour

5. There should then be a meeting between the receiving school and the sending school to:
   • ensure full exchange of information: pupil's strengths, academic progress, attendance, strategies tried, risk assessments
   • to identify the potential support arrangements that would need to be in place. Agree the start date.
   • draw up a transition plan to include areas such as, Outreach Service interventions, pastoral support, phased integration, new risk assessment, involvement of external agencies, communication with staff in the receiving school etc.

6. Only once the receiving school has confirmed that the child has been admitted and placed on roll, can the sending school remove them from their school roll.

7. **Funding** - This type of managed move is an alternative to permanent exclusion and seen as a positive fresh start and is a permanent move. Because it would have been a permanent exclusion it has been agreed previously by the Schools Forum (now Education Board) that the pro rata balance of AWPU will transfer from the sending school's budget either directly to the receiving school or to the Southend DSG via the Local Authority if going on the roll of the Southend PRU Victory Park Academy. In accordance with the School and Early Years Finance Regulations, from 2017 all schools will be required to transfer the balance of all pupil led funding to either the Local Authority or receiving school from the first day that the child has been moved onto the main roll of the new school. This Managed Move will count towards the receiving school's Fair Access total.

The agreement from Schools Forum (now known as Education Board) which exists for all schools, including Academies, that where a child has been permanently excluded the Local Authority will adjust school budgets from the sixth day of a permanent exclusion. This is in accordance with the School and Early Years Finance Regulations. The pro rata balance of all pupil led funds will be transferred either to the school that has accommodated the sixth day provision, or in the case of the Southend Alternative Provision Pupil
Referral Unit (Victory Park Academy), the Local Authority will transfer the pupil led funding directly to the Southend DSG budget.

Background Papers

DfE non - Statutory guidelines: Fair Access Protocols in School Admissions

Southend Borough Council – Making a Fresh Start, Fair Access and Managed Move Protocols 2016
http://www.southend.gov.uk/info/200176/school_admissions/604/fair_access_protocol

School Admissions Code

Alternative Provision – statutory guidance

Exclusion from maintained schools, Academies and Pupil Referral Units in England
Appendix 1

Where a governing body does not wish to admit a child with challenging behaviour outside the normal admissions round, even though places are available, they can only refuse admission and refer cases to the Fair Access Panel in the following circumstances:

1. Where schools can evidence that to do so would prejudice the provision of efficient education or the efficient use of resources and have written a refusal letter to parent stating their reasons (Section 86 of the SSFA 1998). In cases where the child is currently unplaced, refusing schools MUST refer the case to the Local Authorities Fair Access Protocol. This category should only be used for exceptional circumstances.

2. Where a child has been permanently excluded from two or more schools for a period of two years from the last exclusion (does not apply to children who were below compulsory school age at the time of the exclusion, or children who have been re-instated following a permanent exclusion or decision overturned by an Independent Review Panel)

3. The school has been judged by Ofsted as inadequate or requires improvement in the past two years (the below list will updated according to changes in Ofsted status and the date of the last inspection status).

Schools currently falling under this category are:

**Primary:**
- Darlinghurst School
- Porters Grange Primary
- Our Lady of Lourdes Primary

**Secondary:**
- Southchurch High School (Futures)
- Cecil Jones Academy
- Chase High School

4. Schools who can evidence exceptional circumstances demonstrating significant challenges within the year group of application. Examples of exceptional circumstances and significant challenges identified by SOPHA and SOSHA representatives are:

   - High levels of behaviour need, e.g. higher than Borough average for FTE or PEX
   - Lower than Borough average attendance
   - Higher than Borough average children with SEN Support/EHCPs
   - Higher than Borough average Looked After Children
   - Higher than Borough average open to Social Care under Child Protection and/or Child In Need

This list is not exhaustive but will require comparable Borough data in order to evidence that a school has more than their fair share for the identified year group.
SOPHA/SOSHA will be responsible for identifying and setting Borough Averages on an annual basis.

This section identifies those schools and circumstances eligible to refer cases to the Fair Access Panel.

All schools including those identified under the above categories, will continue to be considered when making decisions regarding which school is best placed to admit the child under the protocol. Schools cannot use the above grounds as reason to refuse admission under the Fair Access Protocol.

This list will be reviewed annually. Any amendment should be discussed and ratified either at secondary and primary Headteachers associations (SOPHA & SOSHA) and/or the School Performance Sub Group of Education Board.
Dear Headteacher

Name of School: ________________________

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. All admission authorities, including any that did not agree to the protocol, must participate in the Fair Access Protocol in order to ensure that unplaced children are allocated a school place quickly. (Admissions Coe 2014)

☐ I have read and agree to the revised Fair Access Protocol 2018.

☐ I have read the revised Fair Access Protocol 2018 and do not agree to the contents due to the following reasons (please state in detail what elements you are not in agreement with, using extra space if needed)

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

Any other comments:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

Thank you for taking the time to respond. Please sign and return this response sheet to Cathy Braun, Head of Access and Inclusion, Floor 5 Civic Centre or via email cathybraun@southend.gov.uk

Signed by: ________________________ Date: _________

Please note, in all cases where a school does not respond, it will be accepted that full consent has been given to the revised protocol.