

# Southend on Sea Fair Access and Managed Move Protocols

September 2021

Statutory amendments to align to School Admission Code September 2021

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# Southend-on-Sea Borough Council

## Fair Access Protocol

### Introduction to Fair Access Protocol

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 children not on the roll of a school, or those in alternative provision or who have been permanently excluded but are deemed suitable to be reintegrated/placed into mainstream education.
- Reduce the amount of time that young people spend out of school or missing from educational provision.
- Ensure that schools admit 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 2020 following consultation and agreement with local schools. The 2021 revision reflects statutory amendments as identified in the [School Admissions Code September 2021](#) and DfE guidance [Fair Access Protocols July 2021](#)

The 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.

### Legislative Framework

The [School Admissions Code September 2021](#) 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 2021 section 3.14 - 3.17 states:

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

The Protocol must be consulted upon and developed in partnership with all schools in its area. Once the Protocol has been agreed by the majority of schools in its area, all admission authorities must participate in it.

Participation includes making available a representative who is authorised to participate in discussions, make decisions on placing children via the Protocol, and admitting pupils when asked to do so in accordance with the Protocol, even when the school is full. Local authorities must provide admission authorities with reasonable notice and information as to how and when discussions around the placement of children via the Protocol will take place.

No school - including those with places available – should be asked to take a disproportionate number of children who have been permanently excluded from other schools, who display challenging behaviour, or who are placed via the Protocol. Fair Access Protocols must also set out how the needs of children who have been permanently excluded, and children for whom mainstream education is not yet possible, will be met.

Fair Access Protocols may only be used to place the following groups of vulnerable and/or hard to place children, where they are having difficulty in securing a school place in-year, and it can be demonstrated that reasonable measures have been taken to secure a place through the usual in-year admission procedures:

- a) children either subject to a Child in Need Plan or a Child Protection Plan or having had a Child in Need Plan or a Child Protection Plan within 12 months at the point of being referred to the Protocol;
- b) children living in a refuge or in other Relevant Accommodation at the point of being referred to the Protocol;
- c) children from the criminal justice system;
- d) children in alternative provision who need to be reintegrated into mainstream education or who have been permanently excluded but are deemed suitable for mainstream education;
- e) children with special educational needs (but without an Education, Health and Care plan), disabilities or medical conditions;
- f) children who are carers;
- g) children who are homeless;
- h) children in formal kinship care arrangements;
- i) children of, or who are, Gypsies, Roma, Travellers, refugees, and asylum seekers;
- j) children who have been refused a school place on the grounds of their challenging behaviour and referred to the Protocol in accordance with paragraph 3.10 of the Code;
- k) children for whom a place has not been sought due to exceptional circumstances;

- l) children who have been out of education for four or more weeks where it can be demonstrated that there are no places available at any school within a reasonable distance of their home. This does not include circumstances where a suitable place has been offered to a child and this has not been accepted; and
- m) previously looked after children for whom the local authority has been unable to promptly secure a school place

## 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 registered Alternative Provisions 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 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.
- Admission authorities should be aware that where they refuse a child a school place and subsequently refer them to the FAP, they may later be required to admit that child if an appeal is upheld. This would still be the case when an alternative school place is offered to the child via the FAP. In all circumstances, the decision of an appeal panel is binding and must be complied with. The fact that an appeal has been lodged for a child is not a reason to delay the FAP process.
- Where an admission authority does not wish to admit a child outside the normal admissions round, because it has legitimate reason to believe that the child may display 'challenging behaviour'\* even

where places are available, they can only refuse admission and refer cases to the Fair Access Panel in the following 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);
  - Schools who can evidence a high proportion of children with challenging behaviour or previously permanently excluded pupils on roll within the year group; or
- \*‘Challenging behaviour’ for the purposes of this protocol is defined by the description used in the School Admissions Code 2021, ‘behaviour can be described as challenging where it would be unlikely to be responsive to the usual range of interventions to help prevent and address pupil misbehaviour or it is of such severity, frequency, or duration that it is beyond the normal range that schools can tolerate. We would expect this behaviour to significantly interfere with the pupil’s/other pupils’ education or jeopardise the right of staff and pupils to a safe and orderly environment.’
- A child with challenging behaviour may also be disabled as defined in the Equality Act 2010. When considering refusing admission on these grounds, admission authorities must consider their duties under that Act. Admission authorities should also consider the effect of the decision of the Upper Tribunal in *C & C v The Governing Body of a School, The Secretary of State for Education (First Interested Party) and The National Autistic Society (Second Interested Party) (SEN)* [2018] UKUT 269 (AAC) about the implications of the Equality Act 2010 when a pupil exhibits a tendency to physical abuse of other persons as a consequence of a disability.
  - Schools should have legitimate knowledge of the child and their challenging behaviour and not seek out information in case a child fits this category.
  - A school can only refuse and refer to Fair Access if it has a particularly high proportion of either children with challenging behaviour or previously excluded pupils on roll compared to other local schools and it considers that admitting another child with challenging behaviour would prejudice the provision of efficient education or the efficient use of resources.
  - 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 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.
- Referrers 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. 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 consider the education provision being put into place while the pupil is waiting for admission to school and where appropriate identify an interim suitable education.
- 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 Vulnerable Learners Subgroup which will also include local Managed Moves.

**Schools are reminded, in accordance with the Admissions Code 2021 and section 86 subsections 3-5 of the School Standards and Framework Act 1998 schools can only refuse in-year admission under prejudice for the provision of efficient education or the efficient use of resources, where they can evidence:**

- **The year group is full and/or it would be difficult to fit another pupil into the space without employing another teacher if the child was admitted; or**
- **The child is twice permanently excluded with the latest exclusion being within the past 2 years; or**
- **The child has challenging behaviour and the school already has a high proportion of children with challenging behaviour on roll**

**Where schools have spaces, no other circumstance is permitted within legislation for refusing admission to mainstream (non-boarding) schools.**

Performance will be measured on:

- The number of placement decisions made within 20 school days of a child being referred to the FAP
- The number of children without a school place who are admitted to school within 15 school days of the decision at the Fair Access Panel.
- The number of schools referring unplaced children within 10 school days from receiving a school admission application.

## 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 referrals from mainstream schools under the following categories:

1. Where a child has been permanently excluded from two or more schools in a period of two years from the last exclusion; or
2. The school has legitimate knowledge of child's challenging behaviour as defined above and where the school can evidence a high proportion of children with challenging behaviour within the year group, or previously permanently excluded pupils on roll within the year group.

In addition to referrals from schools, the protocol considers children of compulsory school age, who are reintegrating from Victory Park Academy, or for children who have had difficulty in securing a school place through normal admissions. Latter referrals can be received from Social Care, Early Help Family Support, Youth Offending Service, School Admission Team and Southend Inclusion Services. All service referrals **must** evidence that the child is unplaced; parent has made reasonable steps to apply for an in-year place and has been unsuccessful; and the child has been out of education for four weeks or more; and fall under one of the following categories:

3. Children either subject to a Child in Need Plan or a Child Protection Plan or having had a Child in Need Plan or a Child Protection Plan within 12 months at the point of being referred to the Protocol.
4. Children living in a refuge or in other Relevant Accommodation at the point of being referred to the Protocol.
5. Children 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 original school.
6. Permanently excluded children or those reintegrating from Alternative Provision (primarily Victory Park Academy) or who move into the area having previously been permanently excluded from a school in another Local Authority area. All children permanently excluded and placed at Victory Park Academy, will be heard at the next available panel for decisions on the longer term placement, after the exclusion has been upheld by governors and Independent Review Panel (IRP), and the child removed from the schools roll.
7. Children in formal kinship care arrangements
8. Children of Gypsies, Roma, Travellers, refugees, and asylum seekers.
9. Homeless children.

10. Children who are young carers.
11. Children with special educational needs, disabilities, or medical conditions (but without a statement or Education, Health and Care Plan).
12. Previously looked after children for whom the local authority has been unable to promptly secure a school place
13. Children who have been out of education for four or more weeks where it can be demonstrated that there are no places available at any school within a reasonable distance of their home. This does not include circumstances where a suitable place has been offered to a child and this has not been accepted
14. Children for whom a place has not been sought due to exceptional circumstances. These children are usually identified and referred by either Early Help Family Support or Social Care as a child identified as Missing from Education, evidencing that every attempt has been made to encourage the parent to apply for schools; or children subject to a School Attendance Order (SAO cases will not be heard but counted as a Fair Access admission, once the child has been entered on the roll of the school); or year 11 pupils who arrive into the authority post January and whose needs are complex with little or no previous preparation for GCSE.

All children returning to school from a period of elective home education (EHE), must not be refused admission on the grounds of EHE. Any referrals received to Fair Access where the child has previously been on the roll of a Southend school and removed due to a decision to electively home educate, would only be heard under the protocol if meeting one or more of the above categories. Previously home educated children will for the majority, 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.

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 suitable home education, even if willing to attempt this. This Fair Access decision for previously home educated children 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.

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

Referrals should be fully completed, and the protocol explained fully to parents and children, gaining their views where possible.

For categories 1-2, it remains the referring school's 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 sharing information.

Referrals must be accompanied by the original signed and dated admissions application; a copy of the refusal letter stating the case will be referred to the Fair Access panel, and must be referred to the Local Authority within 10 school days of receipt of the admissions application. Any referral made after this time will not be accepted and the panel will direct the school to admit the child unless there are exceptional mitigating circumstances. This timescale has been reduced after consultation with schools to reduce 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 under categories 3-14 can be received from: Southend's Alternative Provision Victory Park Academy; the School Admissions Team; Southend Inclusion Services; Social Care; the Youth Offending Service; and Early Help and Family Support or School Attendance Service linked to 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'.

All, fully completed referrals meeting the categories of referral, will be heard at the next available Fair Access Panel and within 20 days of completed referral.

## 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 in the current academic year (data for both the current and previous academic year are shared at every meeting and where appropriate, such as in the first term of a school year, the previous year's FAP admissions will be considered).
- The number of successful managed move admissions within the year group in the current academic year.
- The number on roll in the year group.
- Which school has had the most recent Fair Access admission – taking turns where possible.
- Evidence of any known challenges in the relevant year group:
  - Higher than average numbers of SEND.
  - higher than average numbers of exclusion.

- higher than average numbers of children looked after.
- Evidence of known negative 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.

Data for supporting evidence is retrieved via the 'school 2 school' data sharing agreement with the local authority. Where information is missing the last published census data will be referred to. Schools are required to bring evidence relating to the relevant year group, where they believe considerations should be given before deciding upon a placement.

## 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 continue to be chaired by a senior officer of the Local Authority (as determined by the recent consultation with schools). 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.
- b. Applications and admissions of Managed Moves in the Borough will be monitored through the Inclusion Panel. In accordance with the Admissions Code 2021, these pupils are no longer placed under the Fair Access protocol, however successful moves are still recognised as a consideration when placing under the protocol.
- c. There will be one Borough wide panel consisting of:
  - Primary referrals and placement decisions.
  - Secondary referrals and placement decisions.
- d. Decisions outside of panel meetings will only be made in exceptional circumstances by the local authority's Inclusion Manager 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.

- e. The Fair Access Panel Core Membership will consist of:-
- Senior leader of the Access and Inclusion Service.
  - The Executive Headteacher (or senior representative) for Southend's Alternative Provision 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 representative of Social Care (where referrals are open to children's social care).
  - 1 Senior representative from the Inclusion Outreach Service.
  - 1 Senior representative from the School Attendance 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.

Schools should identify considerations for placement success, rather than focus on reasons for not admitting.

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 of the case being heard.

## **Children Permanently Excluded**

Southend resident pupils who have been permanently excluded are placed on the subsidiary roll of Victory Park Academy and dual registered from the sixth day of the exclusion.

The pupil remains dual registered on the main roll of the home school and can only be removed once:

- the governing board (Disciplinary Committee) has decided not to reinstate the pupil; and
- the prescribed time for the parent to apply for an Independent Review Panel (IRP) has passed (15 school days); or
- parents have stated in writing that they will not be applying for IRP; or
- An Independent Review Panel (IRP) upholds the governing board's decision.

When a child is removed from the roll of the school and moved onto the main roll of Victory Park Academy, Victory Park will immediately refer the child to the Fair Access Panel

Referrals will be heard at the next available panel for decisions on the longer-term placement. This could be a placement on the main roll of a mainstream school, a longer-term placement within alternative provision or placed on the home roll at a mainstream provider with a blended alternative provision offer.

## **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 are complex with little or no previous preparation for GCSE, may be referred to Fair Access where there is clear evidence of complex needs.

Children with complex needs, will either be admitted to Southend's Alternative Provision Victory Park Academy or YMCA free school 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. Alternatively, children will be placed within a mainstream school.

Fair Access will support placements at the YMCA or mainstream schools for year 11 students admitted after the October census date, with a one off payment based upon a borough average of secondary pupil led funding, pro rata to the date of entry.

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 likely be directed towards those schools that have developed expertise in this area. Permanent exclusions of Year 11 pupils should be avoided, and alternative provision sought by the school.

## **Review of the Protocol**

There will be biennial review of the Protocol incorporating feedback from panel members. Any changes will only occur after consultation with schools (this includes Academies), unless amendments are required through statutory guidance and legislation.

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.

## **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 Adjudicator's 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](#)











- Identify, that after successful engagement and progress at Victory Park, the pupil may be referred to the Fair Access Panel to be placed at an alternative mainstream school.
3. If parents agree with the APEX Managed Move, the Headteacher contacts the LA's Inclusion Manager and Victory Park Academy to agree the placement.
  4. It is important that negotiations are finalised by all parties before the sixth day of the exclusion. If not, education must be arranged for the pupil from the sixth day.
  5. The Headteacher may withdraw an exclusion that has not yet been reviewed by the governing board.
  6. Once agreed and the child is on the subsidiary roll of Victory Park, the Headteacher must formally withdraw the exclusion.
  7. The pupil **MUST** remain on the roll and the responsibility of the home school. Victory Park Academy will deliver a full-time alternative provision on their subsidiary roll until the pupil is either ready to be transitioned to an alternative mainstream school via Fair Access or they reach compulsory school age.

This does not remove a parent's right to make an in-year admission application to a school during this time.

## **Funding**

It has been agreed previously by the Education Board (acting as the Schools Forum) that the pro rata balance of pupil led funding will transfer from the sending school's budget either directly to the receiving school (fresh start Managed Move) or to the Southend High Needs Block (HNB) via the Local Authority if going on the subsidiary roll of Southend's alternative provision Victory Park Academy.

In accordance with the School and Early Years Finance Regulations, all schools including Academies, will be required to transfer the balance of all pupil led funding to either the Local Authority or receiving school from either the first day that the child has been moved onto the main roll of the new school (fresh start), or the day that education commences at Victory Park Academy (APEX). For an APEX placement this is usually the sixth day of the exclusion.

The agreement from Education Board which exists for all schools, including Academies, 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 Southend's Alternative Provision Victory Park Academy, the Local Authority will transfer the pupil led funding directly to the Southend HNB budget.

## **Parent Information on Managed Moves**

Maintained schools have the power to direct a pupil off-site for education to improve their behaviour. Schools will usually seek to gain parental and child agreement before making a direction under s29A of the Education Act 2002.

An alternative to a directed alternative provision, is a Managed Move.

A fresh start Managed Move is where a child's challenging behaviours are placing a child at risk of exclusion. The child is given the opportunity of a 'fresh start' at another school for a probationary period. If this is successful they will move permanently to the new school, however if unsuccessful, they will return to the original 'home' school.

Managed Moves can only take place with the full consent of everyone involved. This includes parents, the original school, the local authority, and the new school.

Parents and children must be made aware that for Fresh Start Managed Moves that there is a probationary period, where if unsuccessful, the child or young person will be returned to the original school. It is important that the child understands that this is a trial placement and that they need to take every opportunity of support and understand expectations for their attitude and behaviours to make it successful.

A Managed Move at the point of permanent exclusion (APEX) is where the school has issued a permanent exclusion letter, after a breach of the school's behaviour policy. The Headteacher may agree, with parents' consent, to withdraw the permanent exclusion and move the child under an APEX Managed Move to Victory Park Academy.

The child remains on the register of the original (home) school but attends and receives their education at Victory Park Academy. The child would not return to the original school. Victory Park through assessment of needs and alternative teaching methods would continue to provide for the child's education either until they reach the end of their primary phase (end of year 6), end of compulsory school age (end of year 11), or where Victory Park assesses that they are ready to return to mainstream and refers the child for placement at a new school at the Borough's Fair Access Panel.

Where a child has reached the point of permanent exclusion, parents must be informed that to accept the Managed Move, removes their right to object to Governors and Independent Review Panels regarding the original exclusion. If parents want to challenge the school's position for permanently excluding their child and refuse a Managed Move, the permanent exclusion proceeds.

There is no right of appeal against a Managed Move and its outcome. However, it is important to stress that a Managed Move should be a planned and positive fresh start and that schools are supportive and focus on the child's success.

### **Common questions asked by parents:**

Should I agree to a Managed Move?

Only the individual parent/s can make this decision. Parents may prefer a Managed Move, particularly where a child has reached the point of a permanent exclusion (APEX), as it avoids having the exclusion on their child's school record. They may also feel that relationships have irretrievably broken down with the home school and a fresh start Managed Move is the best option for success for their child.

If I want to change my child's school, do I have to agree to a Managed Move?

No, any parent can apply for another school at any time. The local authority recommends that before parents move their child, that they explore any barriers or challenges with the school first. Changing school can be upsetting and unsettling for a child, so moving schools needs to be thought out fully and considerations for what support they might need in making the transition.

Can a school refuse an in-year admission application saying they will only accept a Managed Move?

No, schools must follow legislation when responding to a school admission application. Managed Moves are not part of a school's consideration when applying their admission arrangements. Any refusal for a place in a school, must be in writing (not advised over the phone) and must identify the parents statutory right to appeal against the decision.

Can I demand the school to make a Managed Move?

No. Managed Moves are only considered where a child's behaviour is placing them at risk of exclusion or where due to the breakdown of relationships between home and school, support plans for inclusion are no longer being effective in bringing about a positive change. Parents can ask schools to consider a Managed Move but ultimately the decision must be a joint agreement.

If the Managed Move does not work out, does my child have to return to original school?

Yes, the child remains a pupil of the home school and if the move is unsuccessful, they must return. If the child does not return the school will likely record any absence as unauthorised and the parent is at risk of penalties and possible prosecution. If the Managed Move does not work out, will the school permanently exclude my child instead? A school can only permanently exclude a child in response to a serious breach or persistent breaches of the school's behaviour policy. If the child has not breached the behaviour policy of the home school during their time on a Managed Move, there is no jurisdiction for a permanent exclusion. A Headteacher cannot back date an exclusion letter for a previous incident when they were previously at the school. However, they could consider previous breaches, if the pupil has broken the policy either during the Managed Move period, or on their return to school. This could be considered under 'persistent breaches' of the policy.

## **Background Papers for the Fair Access and Managed Move Protocols**

[Fair Access Protocols July 2021](#)

[School Admissions Code September 2021](#)

[Alternative Provision – statutory guidance](#)

[Exclusion from maintained schools, Academies and Pupil Referral Units in England](#)