

# STOKE ON TRENT CITY COUNCIL

## FAIR ACCESS PROTOCOL

### Introduction

- 1.1 The Authority is required to have an In-Year Fair Access Protocol in order to ensure that access to education is secured quickly for children who have no school place and that all schools in the City admit their fair share of children with challenging behaviour. This Protocol is written in accordance with the School Admissions Code and has been endorsed by the Admissions Forum. The Forum will monitor the implementation of the Protocol and will include in its annual report a section on its operation.
- 1.2 All children of statutory school age should have a place at an educational establishment unless their parents have arranged for them to be educated at home. Children may not have a school place because they have “dropped out” and are “difficult to place” or because they have been permanently excluded from school. These children are vulnerable and need to be reintroduced to full time education as soon as possible. They need a positive educational experience and all partners in the education system have a responsibility to address their needs.
- 1.3 In the past too many children have remained without a school place for too long. Our expectation is that all schools will now act in accordance with this Protocol in order to ensure that young people are offered school places as quickly as possible. In certain circumstances this will mean a school which is already full admitting a pupil who is difficult to place.

### The Definition of “Difficult to Place” Children

- 2.1 The definition of “difficult to place” covers children who are:
  - in the care of a local authority
  - permanently excluded
  - reintegrating from Pupil Referral Units.
  - have a documented history of poor behaviour and recorded fixed term exclusions.
  - refugees or asylum seekers not in accommodation centres who have other needs in addition to their language skills.
  - homeless
  - subject to a court order or who have been referred to the Youth Offending Team.
  - have a serious attendance problem and/or do not have a school place.
  - have a significant gap in their education and no school place; this may include Traveller children.

This list is not exhaustive and it should be noted that not all children in these categories will be difficult to place. It is important that children should not be stereotyped and that account should be taken of the individual circumstances of each child.

- 2.2 Pupils with additional language needs are not deemed to be difficult to place on account of their language needs alone.
- 2.3 Pupils withdrawn from school by their parents are not covered by this Protocol. These cases should be resolved by their school in conjunction with the appropriate support agencies.

### Legal Rights and Responsibilities

- 3.1 Parents have the right to express a preference for the school which they would like their child to attend. An admissions authority has to comply with that preference unless to do so would be incompatible with the provision of efficient education or the efficient use of resources; or the child has been excluded twice within the previous two years. Schools which have places available

cannot refuse to admit a pupil who has behavioural problems, comes from a different country or has a difficult family background, except in the circumstances listed below.

- 3.2 A school in difficult circumstances may be protected from having to admit children who are hard to place. Paragraph 3.13 of the Admissions Code lists five circumstances when a school may refuse to admit a pupil. These are:
- If it is in special measures or has just come out.
  - If it has been identified by OFSTED as having serious weaknesses.
  - If it is the subject of a formal warning.
  - If it is a “fresh start” school or academy open for less than 2 years.
  - If it is an underachieving secondary school (less than 30% achieve five or more GCSEs at grades A\* to C).
  - If it is an underachieving primary school (less than 65% achieve Level 4 at KS2 in English and mathematics for four or more consecutive years).
- 3.3 The governing body of a voluntary aided or foundation school may, under Section 97 of the School Standards and Framework Act 1998, as amended by the Education and Inspections Act 2006, refer to the Adjudicator a Local Authority’s decision to direct the admission of a child. The Adjudicator has the power to determine whether the child should be admitted to the school specified by the Authority.
- 3.4 Special arrangements apply to pupils who have been excluded from two or more schools and to children who are looked after. In the case of a twice excluded pupil, the governing body of a community or voluntary controlled school may appeal to the Independent Appeal panel against the Local Authority’s decision to admit. In the case of a looked after child who has been twice excluded the governors may ask for the matter to be referred to the Adjudicator.
- 3.5 Unless the school is a selective school the only ground on which an admissions authority can refuse to admit a child is that his or her admission would be incompatible with the provision of efficient education or the efficient use of resources.
- 3.6 Under Section 88 of the School Standards and Framework Act 1998 as amended by Section 43 of the Education Act 2006, the governing body of community and voluntary controlled schools have a duty to implement a decision made by the Local Authority with respect to the admission of a pupil, subject to their right to appeal if the pupil has been excluded from two or more schools and in the case of a looked after child to their right to ask for the case to be referred to the Adjudicator.

### **The Principles of the Protocol**

- 4.1 The Protocol applies to all children of statutory school age and should work for the benefit of **all** children. All children should receive a high standard of education and care to help them fulfil their potential.
- 4.2 The Protocol will:
- be fair and transparent.
  - have the confidence of all schools
  - acknowledge the needs of vulnerable young people
  - respect parents’ right to express a preference for the school which they wish their child to attend
  - deal with the young people and their families sympathetically, quickly and with respect.
  - reduce the time that young people are out of education.
  - provide an equitable basis on which schools will be asked to admit a young person with challenging educational needs.
- 4.3 “Difficult to place” pupils will take precedence over pupils held on waiting lists by the Local Authority or other admissions authorities which are covered by this Protocol.

- 4.4 The Local Authority will take account of the number of “difficult to place” pupils who have been admitted to schools during the course of a school year, the proportion of the school roll whom they represent and the impact on individual year groups.
- 4.5 The Local Authority will take account of individual schools’ records in excluding pupils. Schools which have a record of excluding a high number of pupils should be expected to reintegrate a higher number of “difficult to place” pupils.
- 4.6 All agencies of the Local Authority and its partners will support schools to help with the integration of pupils who are difficult to place.

### **The Commitment**

- 5.1 All schools in Stoke-on-Trent will be party to the Protocol and support its implementation
- 5.2 The Authority will operate normal admissions procedures for children who are not considered to be “difficult to place”
- 5.3 Schools will not say that they are full if asked to take a pupil under this Protocol
- 5.4 The pupil’s previous school will provide promptly a copy of the child’s school record and details of incidents which show why the pupil may be difficult to place
- 5.5 All requests will be dealt with within the agreed time frame
- 5.6 The Children Missing Education (CME) Forum may consider those cases which have not been possible to resolve through agreement between all the parties involved
- 5.7 Any agency which is concerned that a child is out of education can refer the child directly to the CME Forum
- 5.8 Where an admission authority is a governing body, the governors will agree a procedure whereby a decision can be made promptly about the placement of a pupil who is referred under this Protocol.

### **Procedures**

- 6.1 Once a child is identified as “difficult to place”, the Admissions and Family Services Team (AFS) will ask for a copy of his/her school record and any information relevant to the child’s placement. This will include information about incidents which have led to the conclusion that the child is difficult to place. This should be provided within 5 working days.
- 6.2 AFS will invite the parent to express a preference for the school or schools for which they would like the child to be considered.
- 6.3 AFS will within 3 working days inform the Headteachers and, where appropriate, the admissions authorities of any schools named as a preference by the parent; provide to them a copy of the child’s record; and seek their view on the request.
- 6.4 The Headteachers of schools named by the parent will respond to the request for comments within 7 working days.
- 6.5 In coming to a decision about the child’s placement the Authority will take careful account of the views of the Headteachers and governing bodies of the schools named by the parent. In particular the Authority will take account of any genuine concerns about a Fair Access admission e.g. a previous serious breakdown in relationships between the family and the school; a strong aversion by the family to the religious ethos of a school.

- 6.6 If one of the schools named as a preference agrees that the child should be admitted, the Authority will inform the parent of the child's placement. If more than one school agrees to admit, the Authority will allocate a place at the parent's first preference school.
- 6.7 If the school(s) named by the parent are reluctant to admit, the case will be referred to the School Organisation Manager (SOM) who will have the responsibility for recommending to the Director of Children & Young People's Services (DCS) which school should be required to admit the pupil. The SOM may consult the Children Missing Education (CME) Forum before making the decision.
- 6.8 Unless there are exceptional circumstances, children who are in care to a Local Authority will be placed in the school of their carer's preference irrespective of the availability of places in the relevant age group.
- 6.9 If, in accordance with paragraph 6.7, the decision is that the pupil should be admitted to a community or voluntary controlled school, the DCS will write to the Headteacher accordingly. The governing body are under a duty to admit the child unless, in the case of a pupil who has been excluded from two or more schools, they appeal to the Independent Appeal Panel or, in the case of a looked after child who has been excluded from two or more schools, they ask for the case to be referred to the Adjudicator.
- 6.10 If, in accordance with paragraph 6.7, the decision is that the pupil should be admitted to a voluntary aided or foundation school, the DCS will issue a direction under Section 96 of the School Standards and Framework Act. The governing body may appeal to the Adjudicator against such a direction.
- 6.11 The school specified in the direction will admit the pupil within 7 working days of the direction being sent unless in accordance with paragraphs 6.9 or 6.10, the governing body has decided to appeal or, as it may be, has asked for the matter to be referred to the Adjudicator.
- 6.12 The Authority will deduct from the budget of the excluding school an amount calculated in accordance with the "money following excluded pupils" regulations and will pass the relevant element of that sum to the new provider.

### **Monitoring**

- 7.1 The CME Forum will receive monthly reports on the numbers of children who are missing from education. The reports will classify pupils by year group, gender and by reason (permanent exclusion, refugee, etc), and will record the action that is being taken to return the pupil to education.
- 7.2 At the end of each school year, the SOM will make a report to the Admissions Forum on the operation of the Protocol.

8 October 2008