

July 2016

1 Introduction

- 1.1 This policy applies to all academies within the Focus-Trust.
- 1.2 The legislative background to the exclusion of pupils from maintained schools, academy schools, free schools, alternative provision academies and pupil referral units in England is as follows;
- The Education Act 2002 as amended by the Education Act 2011.
 - The Education and Inspections Act 2006.
 - The Education (Provision of Full-time Education for Excluded Pupils) (England) Regulations 2007.
 - The School Discipline (Pupil Exclusions and reviews) (England) Regulation 2012.

2 Statutory Guidance

- 2.1 The DFE issued statutory guidance on exclusion in January 2015, http://dera.ioe.ac.uk/21549/1/Exclusion_Guidance_-_January_2015.pdf Headteachers, governing bodies, local authorities, academy trusts, independent review panel members, independent review panel clerks and special educational needs experts must have regard to this guidance.

Except in relation to pupils in PRUs, or where specifically stated, the requirements of the guidance apply in relation to all pupils including those who may be below or above the statutory school age, such as those attending nursery classes or in sixth forms.

- 2.2 Key points within the Guidance, which summarise government views on the use of exclusion and which are reflected in the model policy below, are:
- Good discipline in schools is essential. However, the government supports Principals in using exclusion where it is warranted. Permanent exclusion, however, should only be used as a last resort.
 - The decision to exclude a pupil must be lawful, reasonable and fair. Schools have a statutory duty not to discriminate against pupils on the basis of protected characteristics and to give particular consideration to pupils from groups who are vulnerable to exclusion.
 - There should always be early intervention when a pupil displays disruptive behaviour and the causes of that behaviour, which may be the result of un-met needs, should be sought and followed up as appropriate by possible recourse to external multi-agency assessment.
 - There should be an agreed strategy for the re-integration of pupils after fixed term exclusion.
 - Work must be set and marked by the school for an excluded pupil during the first five days of that exclusion and alternative provision must be arranged from the sixth day.
 - LAs are required to arrange educational provision after the fifth day of exclusion for excluded pupils of compulsory school age from all institutions including those to whom the guidance does not otherwise apply.
 - Parents (and any excluded pupil over 18) may challenge exclusion by asking for a review from an independent review panel. If discrimination is alleged, then they have the right of recourse to a first-tier tribunal or County Court.
 - The review panel does not have the power to direct a LGB to re-instate an excluded pupil. But it can direct the LGB to review its decision. If the LGB still decides not to re-

instate the pupil, then the school will be ordered to make an additional payment of £4000. This is a contribution towards the cost of providing alternative provision.

- Parents (and any excluded pupil over 18) can request the presence of a special needs expert on the review panel, whether or not the excluded pupil is deemed by the school to have SEN.
- The excluded pupil should be enabled and encouraged to participate at all stages of the exclusion process, taking into account their age and understanding.

3 The Trust's commitment

3.1 The Focus-Trust is committed to, 'Learning together, making the difference'. The Trust has an underpinning belief that every child deserves the opportunity to have a life that is free from fear and danger, where they can give and receive respect and enjoy a sense of wellbeing, belonging, worth and achievement.

3.2 Each academy within the Focus-Trust has its own vision/mission statement; however the above commitment drives the work of the Trust. The Focus-Trust is committed to the philosophy and practice of inclusion.

3.3 We aim to provide a stimulating learning environment that varies according to the age of the learner across the whole curriculum. We recognise that the curriculum is subject to imposed and developing change. We also aim to be in a position to maximise individual potential and ensure that pupils of all ability levels and staff at differing stages in their career are well equipped to meet the challenges of education, work and life.

This will be achieved by;

- Designing a curriculum to promote a full range of learning, thinking and life skills.
- Providing a broad, balanced and relevant curriculum.
- Using flexible and responsive teaching and learning styles.
- Equipping pupils with the skills, knowledge and attitudes necessary to succeed as responsible and valued members of society.
- Developing a close partnership within and with the whole community, including all stakeholders.

3.4 We aim to be an inclusive school and offer equality of opportunity and diversity when needed to all groups of pupils within school. These groups include:

- Boys and girls.
- Pupils from minority faiths, ethnicities, travellers, asylum seekers, refugees.
- Pupils who have English as an additional language.
- Pupils who have disabilities
- Pupils who have special educational needs.
- Pupils who are looked after children.
- Pupils who have medical conditions
- Pupils who are at risk of disaffection or exclusion, children from families under permanent or temporary stress.

3.5 We aim to provide a differentiated curriculum that meets the needs of all pupils, individuals and groups by:

- Setting suitable learning challenges.
- Responding to pupils diverse learning needs.
- Overcoming potential barriers to learning and assessment.

- 3.6 We aim to provide happy, healthy and safe academies by:
- Recognising, reflecting and celebrating the skills, talents, contributions and diversity of all our pupils and staff members.
 - Providing high quality pastoral care, support and guidance, driven by the leadership team.
 - Safeguarding the health, safety and welfare of pupils and staff.
 - Listening and responding to the concerns of learners and parents.
 - Taking care to balance the needs of all members of the school community.
- 3.7 We will secure inclusive education for our pupils by constantly review and evaluating what is done through the following questions:
- Does each pupil achieve as much as they can?
 - Are there differences in the achievements of different groups of pupils?
 - What is in place for pupils who are not achieving their potential?
 - Are our actions effective?
 - Are all our pupils happy to be in school?
 - Are all our staff members happy to be in school?
 - Are all members of our community valued, do they feel secure and are they offered opportunities to learn? Are structures in place to support inclusion if they cannot?

4 Exclusion

- 4.1 In any circumstances where it becomes necessary to exclude a pupil the statutory guidelines and regulations will be stringently followed.
- 4.2 Exclusion will be used:
- For a major first offence, such as serious actual or threatened violence, sexual abuse or assault, supplying banned substances or carrying an offensive weapon.
 - Where allowing a pupil to remain in school would be seriously detrimental to the education of other pupils, to the welfare of other pupils, staff or of the pupil him/herself.
 - More usually it follows a series of breaches of the academy's disciplinary code and after an exhaustive range of strategies to resolve the pupil's disciplinary problems have been tried and have failed.
 - When the behaviour of pupils outside school is such that it can be considered as grounds for exclusion.
- 4.3 The principles of our exclusion policy**
- 4.3.1 Only the Principal or acting Principal can exclude a pupil. This power may not be delegated to anyone else.
- 4.3.2 The Principal may withdraw an exclusion that has not been reviewed by the governing body.
- 4.3.3 Any decision the Principal makes to exclude a pupil must be;
- lawful;
 - rational;
 - reasonable;
 - fair; and
 - proportionate.
- 4.3.4 When establishing the facts in relation to a possible exclusion, the Principal will always apply the civil standard of proof i.e. on the balance of probabilities.

- 4.3.5 We will take care to ensure that a decision to exclude does not involve any kind of discrimination as defined by the Equality Act 2010. The school will always have due regard to its public sector equality duty.
- 4.3.6 We will not exclude any pupil for non-disciplinary reasons.
- 4.3.7 Exclusion will never be used informally or unofficially. This is against the law. The Principal does, however, have the right to direct a pupil for education off-site to improve behaviour, or to arrange a 'managed move' for the same reason, but this will only be considered when there has been full consultation and agreement with parents/carers and the receiving institution.
- 4.3.8 Where appropriate, the Principal will give the pupil an opportunity to present his/her case before taking the decision to exclude.
- 4.3.9 When considering exclusion, the Principal will take into account;
- Possible short-term mitigating circumstances such as bereavement, mental health issues etc.
 - Whether the pupil comes into a category that is known to be a particularly vulnerable group (e.g. pupils with SEN, FSM pupils; looked after children; certain ethnic groups; traveller children) and whether all preventative strategies have been fully utilised.
 - Whether a pupil has already had a number of fixed term exclusions which appear to be ineffective.

4.4 Duration of exclusions

- 4.4.1 The Principal may exclude a pupil for one or more fixed periods not exceeding a total of 45 days in any one school year or permanently.
- 4.4.2 If a pupil is excluded for lunchtimes only, each lunch time counts as a half day.
- 4.4.3 The Principal may exclude a pupil permanently if he/she judge the circumstances warrant it.

4.5 Action Following Any Exclusion

Refer to the seven Trust Exclusion documents (complete Exc 1)

All exclusion forms should be sent immediately to the Focus-Trust office to j.berry@focus-trust.co.uk

4.5.1 Informing parents/carers

Following any exclusion of whatever type or duration, the Principal will:

- Inform parents of the period and nature of the exclusion.
- Give the reasons for the exclusion.
- Advise parents about rights of representation about the exclusion to the LGB and how these representations may be made.
- Take account of his/her legal duty of care when sending a pupil home following an exclusion. 'Holding' arrangements until the pupil can be collected may be necessary.
- Make arrangements to provide suitable full time education from the sixth day onwards for pupils who have been given a fixed period exclusion lasting longer than five days. Once alternative provision has been arranged from the sixth day of the exclusion, the Principal must by law inform the parents without delay of the start date,

times and venue of the provision. This must be done no later than 48 hours before the alternative provision is to start.

- 4.5.2 The above information will be put in writing and will be sent either by e-mail, by text, by delivering a letter directly to the parents, leaving it at their last known address or by posting it to this **address** (less than 5 days complete Exc2 and for 5-15 days complete EXC4). The information can also legally be sent home with the excluded pupil, but in this case we will always send a duplicate copy by a reliable alternative method. The information provided to parents will be clear and free of unnecessary jargon.
- 4.5.3 Where the excluded pupil is of compulsory school age, the school will also notify parents without delay and by the end of the afternoon session that for the first five days of an exclusion they are legally required to ensure that their child is not in a public place during school hours without reasonable justification and that they may be given a fixed penalty notice if they fail to do so.
- 4.5.4 Parents must be informed where a fixed term exclusion has been extended or converted to a permanent exclusion. In such cases, the Principal must write again to the parents explaining the reasons for the change and providing any additional information required.
- 4.5.5 Informing other bodies
The Principal should complete **Form EXC1** for a fixed term exclusion and **EXC2** for a permanent exclusion.

For any exclusion of more than five days, be it in a single block of days, an accumulation of short exclusions of more than five days in any one term, or a permanent exclusion, the Principal will also:

- Notify the Focus-Trust giving the details of the exclusion and reasons for it.
 - Notify the Chair of the LGB giving the same details.
 - For a permanent exclusion, if the pupil lives outside the local authority in which the school is located, the Principal must also inform the 'home authority' of the exclusion without delay.
 - If any exclusion of even one day would cause a pupil to miss a public examination or national curriculum test, the Principal will inform the Focus-Trust and the Chair of the LGB.
- 4.5.6 The Principal will make a termly report to the LGB on all exclusions, covering:
- The number and type of exclusions.
 - The reasons, gender, ethnicity and age of pupils and whether they were already on Individual Education Programmes or Pastoral Support Programmes.
 - Repeated exclusions and the school's response to them.
 - Links with parents.
 - Truancy, punctuality and attendance figures.
 - Follow-up action, including what has subsequently happened to permanently excluded pupils.
- 4.5.7 In addition, within 14 days of a request, academies must report to the Secretary of State information about any exclusions within the last 12 months.

4.6 The powers of the governing body *

- 4.6.1 The LGB may review all the various categories of exclusions and will consider any representations made by the parents of the excluded pupil. If the pupil is aged 18 or over, he/she may represent him/herself provided there is parental agreement.

- 4.6.2 The LGB has no power to increase the severity of exclusion. It can, however, uphold exclusion or direct the pupil's reinstatement, either immediately or by a particular date.
- 4.6.3 However, in the case of fixed term exclusion that does not bring the pupil's total number of days of exclusion to more than five days in a term the LGB cannot direct reinstatement and is not required to arrange a meeting with parents.

4.7 Discipline / Appeals Committee

- 4.7.1 The LGB has established a discipline committee to which it delegates its functions in respect of exclusions. (Hereafter referred to as 'the committee'). The committee consists of at least three governors.
- 4.7.2 All governors who serve on a discipline committee receive training to help them discharge their duties. A clerk to the discipline committee is also appointed.
- 4.7.3 The committee can hear more than one appeal at a single sitting, so long as it complies with the statutory time limits related to each one.
- 4.7.4 If one of the committee has knowledge of the pupil(s) involved in the exclusion, or of the incident that led to that exclusion that could affect his/her impartiality, he/she should step down.
- 4.7.5 Should it not be possible to draw the relevant number of governors from with the local governing body, the Trustees will arrange for governors from other academies to sit on the Appeals Committee. An appeal will always be attended by a representative of the CEO.
- 4.7.6 The chair has a casting vote in all cases where an even number of governors are considering the case.
- 4.7.7 If the exclusion could result in a pupil missing a public examination, the committee will make every effort to meet before the date of the examination. Should this not be possible, then the Chair of Governors will consider the exclusion and decide whether to re-instate the pupil, (these are the only circumstances in which the Chair alone will review exclusion). When this occurs, the parents also have the right to make oral representations. If possible, the Chair of governors will have the advice of the clerk. The committee or Chair of governors may agree to allow the pupil back on to the school premises for the sole purpose of sitting an examination but they are not obliged to do so.

4.8 Convening an appeal meeting

4.8.1 Fixed term exclusions of 5-15 days

If the parents of an excluded pupil make written representations,

- The committee will consider them.
- No statutory time limits apply to the consideration of such exclusions.
- The committee has the discretion to agree to a meeting to discuss the exclusion, if this is requested by the parents.
- In the case of a fixed term exclusion of more than 5 but not more than 15 school days, the committee, once having agreed to hold a meeting will hold that meeting between the 6th and the 50th school day after receiving notice of the exclusion from Principal.

4.8.2 Longer fixed term exclusions and permanent exclusions (complete EXC5)

- Should the exclusion be for more than 15 days, or the total of fixed term exclusions is more than 15 days that term, or if the exclusion is a permanent one, the committee has a duty to convene a meeting to be held between the 5th and the 16th school day after the date of receipt of a notice to consider the exclusion.
- The parents, the Principal (and an LA officer in the case of maintained schools, although an academy may opt to do so if so wished) will be invited to the meeting at a time and a place convenient to all the participants within the statutory time limit. The parent and the school may each be accompanied by a friend/advisor.
- The committee will ask for any written statements including witness statements in advance of the meeting.
- The clerk will circulate in advance of the meeting any written statements and a list of those who will be present at the meeting to all parties including the pupil if it is known that he/she will be present.

N.B. if a pupil has a number of lunchtime exclusions in any one term which add up to more than 5 school days, the rules above also apply.

4.8.3 **Prior to the meeting**

The LGB should:

- Not discuss the exclusion with any party outside the meeting.
- Identify the steps they will take to enable and encourage the excluded pupil to attend the meeting and speak on his/her own behalf.

4.8.4 **Conduct of the Meeting**

The meeting will be conducted as follows:

- No party to the review will be alone with the committee before, during or after the meeting.
- The clerk makes all introductions and explains the reason for the meeting and the powers held by the committee either to uphold an exclusion or re-instate the pupil
- The school representative, usually the Principal, will present the school's case.
- He/she can be questioned by all the other parties.
- The parents will be asked to give their reasons for appealing.
- Very often it is the friend/advisor (who may well be a lawyer) who presents the parents' case.
- The parents and the pupil, if present, will still be asked if they have anything to add.
- The other parties may question the parent and /or comment on what the family has said.
- In maintained schools, an LA representative will provide information on support for pupils in the LA and how similar incidents have been dealt with by other schools, and can be questioned on these, but may not comment on the specific case being discussed. An academy is not obliged to have an LA representative present but may wish to do so.
- The school sums up its case.
- The parents or their representative sum up their case.
- All the parties except the committee and the clerk leave.

4.8.5 The committee will apply the 'balance of probabilities' standard of proof to the allegation of misconduct by the pupil. The more serious the allegation, of course the more convincing the substantiating evidence needs to be. This is not the same as requiring the criminal standard of 'beyond all reasonable doubt' to be applied.

4.8.6 The decision: Fixed term exclusions

The clerk may help the committee in making its decision by reference to notes taken, by reminding them of statutory procedures where relevant and by wording the decision letters afterwards.

- 4.8.7 In reaching that decision, the committee should be mindful that the government does not allow that exclusion is justified for:
- A breach of uniform or appearance, except for persistent defiance.
 - Minor incidents such as failure to complete homework or to bring in money owed.
 - Poor academic work.
 - Lateness or truancy.
 - Pregnancy.
 - Misdeeds by a child who has special educational needs, except for very serious offences.
- 4.8.8 In the case of fixed term exclusion, it is possible that the exclusion may already have expired and the pupil is back in school. In that case:
- The committee will decide whether the Principal's decision to exclude the pupil was justified, based on the evidence.
 - The outcome should be added to the pupil's record for future reference.
- 4.8.9 In rare cases, the parents may have already decided that they do not want their child reinstated whatever the committee's decision. Under those circumstances, the committee should simply record whether or not they believed that the Principal's decision was justified. This view should be recorded and sent to the parents.
- 4.8.10 If the fixed term exclusion is still operative:
- The committee will decide whether or not the Principal's decision to exclude was justified.
 - They can either uphold the exclusion, which will have to run its course, or
 - Direct the pupil's reinstatement either immediately or on a named date
- 4.8.11 The committee through the clerk must inform the parents, the Principal of their decision in writing within one school day of the hearing, giving the reasons. They may not attach any conditions to any direction they have given the Principal to reinstate the pupil.
- 4.8.12 The academy has in place established procedures both for the return to school of a pupil whose fixed term exclusion has been upheld, and for the reinstatement of a pupil whose exclusion has been overturned. On their return, a pupil first has a meeting with the Principal or another senior member of staff, responsible for the pupil's welfare, along with his/her parents.
- #### 4.9 Permanent Exclusion (complete EXC2 and EXC6)
- 4.9.1 We follow government guidance which sets out reasons why it would normally be inappropriate to reinstate a pupil. These are:
- Serious actual or threatened violence against another pupil or a member of staff
 - Sexual abuse or assault.
 - Supplying illegal drugs.
 - Persistent and malicious disruptive behaviour, including open defiance or refusal to conform to school rules.
- 4.9.2 When the committee decides to uphold a permanent exclusion, a letter to the parents (or to the pupil if aged 18 or over) will state: (complete EXC7)
- Their reason for the decision.

- The right of the family to refer the case to an Independent Review Panel, together with the name and address of the person to whom any request for a review should be sent
- The date by which any request for a review should be lodged
- That any request for a review must set out the grounds on which the request is made.
- That any claims on grounds of disability discrimination can also be set out. If a case for discrimination is made, this will be referred to a First Tier Tribunal or a County Court.

4.9.3 If the committee decides to overturn the exclusion, again as with fixed term exclusions, the decision as to whether there is to be an immediate reinstatement or a later date for this to occur will be conveyed to all parties. A note of the LGB's views on the exclusion will be placed on the pupil's school record with copies of relevant papers.

4.10 Independent review panels

We advise parents that they request a review of the decision by the governor's committee to uphold a permanent exclusion. An independent panel cannot overturn the decision of a governors' committee. However, if they have grounds for believing that the governors' decision was flawed, they can require the LGB to reconsider their decision.

The academy trust may appoint a clerk to provide advice to the panel and parties to the review on procedure, legislation and statutory guidance on exclusions.

4.11 Follow up

4.11.1 Where an application for an independent review has been made within 15 school days the pupil will remain on the school roll until the review has been held and its outcome known.

4.11.2 The Principal will, however, remove the name of a permanently excluded pupil from the school admissions register if:

- 15 school days have passed since the parents were notified of the LGB's decision to uphold the permanent exclusion.
- The parents have stated in writing that they will not be applying for an independent review.

4.11.3 If the parents go on to make a discrimination claim which is upheld by either a First Tier Tribunal or the County Court, pupil must be re-instated.

4.11.4 Should the LA place an excluded pupil with us, we will not refuse to take such a pupil unless we are full. However, if the child has already been excluded from two or more schools, then our LGB may refuse to take him/her.

4.12 Parenting orders

Under the Anti-Social Behaviour Act 2003, LAs have powers to apply for a parenting order to help address children's behaviour in school. If necessary, we will request the LA to make an application for a parenting order if we feel it necessary to help us address a child's behaviour in school. A parenting order is a court order which compels parents to attend parenting classes and to fulfil other requirements as determined necessary by the court for improving their child's behaviour.

Parenting orders will only be considered following a permanent exclusion or a second fixed term exclusion within 12 months, particularly if parents have not responded to the opportunity to meet with us or the governor's committee.

4.13 Financial implications of exclusion

- 4.13.1 Should a pupil be permanently excluded, the appropriate sum allotted for that child's education will be deducted immediately from the school budget. The money will remain in the school budget for a little longer if the parent chooses to appeal to a governors' committee and then an independent review panel.
- 4.13.2 If an independent review panel requires the LGB to reconsider a permanent exclusion but the LGB upholds that exclusion, the academy will be required to make a £4000 payment to the LA in which the academy is sited.
- 4.13.3 This is to ensure that the money follows the child to whatever form of education he/she receives after the exclusion. Special arrangements can be made if the child moves to another authority or would be about to move anyway from one phase of education to another e.g. at age 11.

* Note that any reference in this section to the governing body includes both the local governing body and also the Focus-Trust board. The Focus-Trust board may delegate decision making to the Chief Executive or their representative.

Title	Exclusion policy
Aim	To outline the agreed approach to pupils exclusion across the Focus-Trust.
Related documents	Policies on safeguarding and child protection. Academy specific policies on behaviour and discipline.
Date for implementation	01.09.2016
Approved by	Trust Board – 29.01.13
Date of next review	July 2017
Updated	July 2016