



# **EXCLUSION POLICY**

**1<sup>st</sup> September 2016**

**DOCUMENT CONTROL**

<b>Author/Contact</b>	Sharon Parish Tel: 01622 743286 ext 212 Email: Sharon.parish@futureschoolstrust.com	
<b>Document Reference</b>	Exclusion Policy	
<b>Version</b>	02	
<b>Status</b>	Approved	
<b>Publication Date</b>	September 2016	
<b>Related Policies</b>	Safeguarding Policy Attendance Policy Admission Policy Pastoral Protocol	
<b>Review Date</b>	September 2017	
<b>Approved/Ratified by</b>	Full Governing Body	Date: 3 <sup>rd</sup> October 2016
<b>Distribution:</b>  Future Schools Trust Staff  <b>Please note that the version of this document contained within the VLE is the only version that is maintained.</b>  Any printed copies should therefore be viewed as “uncontrolled” and as such, may not necessarily contain the latest updates and amendments.		

<b>Version</b>	<b>Date</b>	<b>Comments</b>	<b>Author</b>
01	23.06.15		S Parish
02	01.09.16	Updates on internal exclusions, and safeguarding	S Parish

**Review Process Prior to Ratification:**

<b>Name of Committee</b>	<b>Date</b>
Safeguarding	23 <sup>rd</sup> June 2015

1. This policy should be read in conjunction with the following policies: Teaching and Learning, Special Educational Needs, Equal Opportunities, Health and Safety, Behaviour, Anti-discrimination, Sex and Relationships, Safeguarding, Admissions and Reasonable Adjustment Policy.
2. Our Trust is committed to the practice of inclusion. Therefore, we believe our policy should be an overarching policy, true to the school's vision and aims. Consequently, it sets out to make clear the importance of:
  - leadership
  - the culture within the school
  - policy and practice
3. The leadership and management team has agreed that the shared vision will be given high priority and all stakeholders will be aware of our whole school commitment.
4. Within the context, the Trust will 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:
  - Pupils from minority faiths, ethnicities, travellers, asylum seekers, refugees
  - Pupils who have English as an additional language
  - Pupils who have Special Educational Needs
  - Pupils who are gifted and talented
  - Pupils who are looked after children
  - Pupils who are at risk of disaffection or exclusion, young carers, sick children, children from families under permanent or temporary stress
  - And including any other protected characteristic
5. We will secure inclusive education for our pupils by constant 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?
6. In any circumstances where it becomes necessary to exclude a pupil, the statutory guidelines and regulations will be stringently followed.

## 7. Exclusion would normally 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 school's disciplinary code and after a 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.

## 8. The Principles of our Exclusion Policy

- Only the Principal or Vice Principal, in accordance with the Principal, may exclude a pupil.
- This power may not be delegated to anyone else.
- The Principal may withdraw an exclusion that has not been reviewed by the governing body.
- Any decision the Principal makes to exclude a pupil must be;
  - Lawful ○ Rational ○ Reasonable ○ Fair ○ Proportionate.
- 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.
- 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.
- We will not exclude any pupil for non-disciplinary reasons.
- 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 and the receiving institution.
- Where practical, the Principal will give the pupil an opportunity to present his/her case before taking the decision to exclude.
- 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.

## **9. Internal Exclusions**

Internal exclusion is an internal process within the school and is used when the objective is to remove the pupil from class, not from the school site, for disciplinary reasons.

It may be a formal process within the school but it is not a legal exclusion, so exclusions legislation and the department's guidance on exclusion from school does not apply.

Sending a pupil off site for behavioural reasons is a legal exclusion and has to be dealt with and recorded as such.

Where a pupil is regularly having internal exclusions, it would be advisable to look at the pupil's learning and behaviour needs.

## **10. Using internal exclusion where there are safeguarding concerns**

Where there are concerns for a pupil's safety, the school's designated safeguarding lead should advise the Principal and contact Children's Social Services before the Principal decides to exclude the pupil.

It may be appropriate for the Principal to delay the dates for exclusion to allow the social worker to plan how to ensure the child is kept safe from significant harm during the exclusion. The Principal may issue an internal exclusion for the intervening days in school.

Internal exclusions may be more appropriate than external exclusions where a pupil is looked after, subject to a child protection plan, or might be put at risk if excluded formally.

An exclusion should not be enforced where doing so would put a pupil's safety at risk.

## **11. Duration of Exclusions**

- 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.
- The Principal may exclude a pupil permanently if he /she judges the circumstances warrant it.

### **Action Following Any Exclusion**

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

- Inform the parents of the period and nature of the exclusion.
- Give the reasons for the exclusion.
- Advise the parents about rights of representation about the exclusion to the Governing Body 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.

- If the excluded pupil is in Year 11 or 13 and has completed all public examinations, no alternative educational provision after six days is necessary.
- This 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. 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.
- 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.
- 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.

## **12. Informing Other Bodies**

- For any exclusion, 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 Local Authority (LA) giving the details of the exclusion and reasons for it
- notify the Governing Body 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, the Principal will inform the LA and the governing body.

The Principal will make a termly report to the Governing Body 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

In addition, within 14 days of a request the school will report information about any exclusions within the last 12 months to the Education Secretary

### **13. The Powers of the Governing Body**

The Governing Body 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, they may represent themselves provided there is parental agreement.

The Governing Body has no power to increase the severity of an exclusion. It can, however, uphold an exclusion or direct the pupil's reinstatement, either immediately or by a particular date.

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 Governing Body cannot direct reinstatement and is not required to arrange a meeting with parents.

### **14. Discipline/Appeals Committee**

The Governing Body has established a discipline/appeals 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.
- We ensure that all governors who serve on a discipline committee have received training to help them discharge their duties. A Clerk to the discipline committee is also appointed. 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.
- 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.
- The chair has a casting vote in all cases where an even number of governors are considering the case.
- 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 an 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 or an LA officer. 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.

### **15. Convening an Appeal Meeting**

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 the Principal.

#### Longer Fixed Term Exclusions and Permanent Exclusions

- Should the exclusion be for more than 15 days, or the total of fixed term exclusions be 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 if the school chooses) 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.

Prior to the Meeting the Governing Body 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.

### **16. 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 Chair 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.
- The other parties may question the parent and /or comment on what the family has said.
- If present, the 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.
- 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.



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.

### **17. 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.

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

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

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.

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

The committee, through the clerk, must inform the parents and 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.

The school 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 reintegration meeting with the Principal or another senior member of staff, responsible for the pupil's welfare, along with his/her parents.

### **18. Permanent Exclusion**

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

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:

- Their reason for the decision
- The right of the family to appeal 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.

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 governing body's views on the exclusion will be placed on the pupil's school record with copies of relevant papers.

### **19. Independent Review Panels**

We advise parents that they can request a review of the decision by the Governor's Discipline Committee to uphold a permanent exclusion. The Academy Trust is responsible for managing and training independent panels concerning cases of permanent exclusion. An independent panel can uphold an exclusion, but cannot overturn the decision of a governors' committee. The panel can recommend that the Governing Body reconsiders its decision, taking account of the findings of the panel. If the panel has grounds for believing that the governors' decision was flawed, they can direct the Governing Body 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.

The Academy Trust must ensure that all panel members and Clerks have received training within the two years prior to the date of the review.

If requested by parents, the Academy Trust must appoint an SEN expert to attend the panel and will cover the associated costs of the appointment (regardless of whether the school recognises that a pupil has SEN).

## **20. Follow Up**

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.

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 governing body's decision to uphold the permanent exclusion.
- The parents have stated in writing that they will not be applying for an independent review.

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

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 Governing Body may refuse to take him/her.

## **21. 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.

## **22. Financial Implications of Exclusion**

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.

If an independent review panel directs the Governing Body to reconsider a permanent exclusion but the Governing Body upholds that exclusion, the school will be required to make a payment of £4,000 to the LA in which the school is sited.

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.