

Author		Target group	All employees, consultants and volunteers
Owner	CfBT Schools Trust	Next review due	September 2018
Issued			

**This policy applies to the whole of CfBT Schools Trust (CST), including all schools.**

### **Scope and publication**

The policy sets out guidelines and circumstances under which a pupil may be excluded on a fixed term or permanent basis from [name of School] and applies to all pupils at the school, including those who may be below or above compulsory school age. The policy is available school website and can be made available in large print or other accessible formats if required.

### **Guidance and legislation**

This policy is drafted to be compliant with the Statutory Guidance :

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/630073/Exclusion from maintained schools academies and pupil referral units guidance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/630073/Exclusion_from_maintained_schools_academies_and_pupil_referral_units_guidance.pdf) (DfE 2017)

This policy reflects changes that have been made to the previous guidance document:

[Exclusion from maintained schools, academies and pupil referral units in England: A guide for those with legal responsibilities in relation to exclusion](#) DfE, September 2012.

This policy contains a summary of this guidance and is not intended to provide a full account of all of the guidance content.

This policy also takes account of the School’s public sector equality duty set out in section 149 of the Equality Act 2010.

### **Statement of principles**

Exclusion is a sanction used by the school only in cases deemed as serious breaches of the School Behaviour Policy. A student may be at risk of exclusion from school for:

- Verbal or physical assault of a student or adult.
- Persistent and repetitive disruption of lessons and other students’ learning.
- Supply/possession/use of certain drugs and solvents or their paraphernalia or substances intended to resemble them, or alcohol or tobacco.
- Theft, blackmail, physical violence, intimidation, racism or persistent bullying.
- Misconduct of a sexual nature, supply or possession or pornography.
- Possession or use of unauthorised firearms or other weapons.
- Vandalism or computer hacking.
- Extreme misbehaviour which is deemed outside the remit of the normal range of sanctions, which affects the welfare of a member or members of the School Community (single or repeated episodes) on or off School premises.

A fixed-term exclusion from the school can only be authorised by the Headteacher or one of the Deputy Headteachers acting on their behalf. If none are available to authorise the exclusion a decision should be deferred until the opportunity for authorisation is available.

In the case of a permanent exclusion this can only be authorised by the Headteacher and must not be delegated to anyone else. The Trust can be consulted to assist in this decision but the final decision will always rest with the Headteacher.

The school seeks to reduce the number of incidents leading to exclusions by promoting a positive atmosphere of mutual respect and discipline within the school.

The school regularly monitors the number of fixed-term exclusions to ensure that no group of students is unfairly disadvantaged through their use and that any underlying needs of individuals are being fully met.

### **Implementation of the Exclusion Policy**

Only the Headteacher or an acting Headteacher may exclude a pupil.

This power may not be delegated to anyone else.

The Headteacher may withdraw an exclusion that has not been reviewed by the Local Governing Body.

Any decision the Headteacher makes to exclude a pupil must be:

- lawful
- rational
- reasonable
- fair
- proportionate.

When establishing the facts in relation to a possible exclusion, the Headteacher will always apply the civil standard of proof i.e. on the balance of probabilities.

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, children will not be sent home to 'cool off' even with parents' permission. This is against the law.

The school may use internal exclusion systems such as time out in designated areas of the school.

The Headteacher has 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 Headteacher will give the pupil an opportunity to present her case taking into account their age and understanding, before taking the decision to exclude.

### **Behaviour related to a protected characteristic**

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.

We will not discriminate against pupils on the basis of protected characteristics, such as disability or race. The school will make reasonable adjustments for managing behaviour which is related to a pupil's disability. Where exclusion needs to be considered, the school will ensure that a disabled pupil is able to present his or her case fully where the disability might hinder this.

### **Process**

**The decision to exclude a pupil is not taken lightly and the Headteacher will:**

- Ensure that a thorough investigation has been carried out, usually by the Deputy Head.
- Consider all the evidence available to support the allegations.
- Allow and encourage the pupil to give their version of events.
- Keep a written record of the actions taken including the signed statements of witnesses. Any exclusion of a pupil, even for short periods of time, will be formally recorded.
- Be confident that the procedures detailed in this policy and the Statutory Guidance have been carried out.
- Seek guidance from the CST Governance and Operations Lead, CST Legal and HR Lead or CST Regional Director when appropriate.

### **When considering exclusion, the Headteacher 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.

### **Duration of exclusions**

The Headteacher may exclude a pupil for one or more fixed periods not exceeding a total of 45 days in any one school year. A pupil may be subject to a fixed-term exclusion and be required to stay at home whilst a complaint is being investigated or while an investigation is adjourned.

### **Lunchtime exclusions**

Pupils whose behaviour at lunchtime is disruptive may be excluded from the school premises for the duration of the lunchtime period. In such cases the requirements in relation to exclusion, such as the Headteacher's duty to notify parents, still apply. Lunchtime exclusions are counted as half a school day for statistical purposes and in determining whether a Local Governing Body meeting is triggered

The Headteacher may exclude a pupil permanently if he /she judge the circumstances warrant it.

### **Public places**

During the first five days of any exclusion, the parents of an excluded pupil must ensure that they are not present in a public place during normal school hours without reasonable justification, whether with or without a parent/carer. Failure to comply with this is an offence for which a fixed penalty notice can be issued.

### **Action following any exclusion**

#### **Following any exclusion of whatever type or duration, the Headteacher 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 with the Local Authority (LA) 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 Headteacher 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 email, 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 Headteacher must write again to the parents explaining the reasons for the change and providing any additional information required.

### **Reintegration meeting**

All students returning from a fixed-term exclusion are required to attend a reintegration meeting, accompanied by a parent. This meeting will seek to establish practical ways in which further exclusion can be avoided and behaviour modified to acceptable standards in partnership between student, parent and school.

### **Notification of fixed-term and permanent exclusions**

For any exclusions, 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 Headteacher will also:

- the CST Governance and Operations Lead and CST Regional Director
- notify the Local Authority (LA) giving the details of the exclusion and reasons for it
- notify the Local 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 Headteacher 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 Head teacher will inform the LA and CST Governance and Operations Lead and Regional Director.

The Headteacher will make a termly report to the Local 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.

This information will also be provided to the Trust by posting on the relevant area of the CST Google hub.

## **The Local Governing Body**

The Local 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, she may represent herself provided there is parental agreement.

The Local 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.

## **Discipline/appeals committee**

The Local 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 Local Governors.

- We ensure that all Local 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 of this committee has a casting vote in all cases where an even number of Local 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 Local 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 will have the advice of the Clerk or an CST Governance and Operations Lead. The committee or Chair 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.

## **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 five but not more than 15 school days, the committee, once having agreed to hold a meeting will hold that meeting between the sixth and the 50th school day after receiving notice of the exclusion from Headteacher.

### **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 school term, or

- if the exclusion is a permanent one

the committee has a duty to convene a meeting to be held between the fifth and the 16th school day after the date of receipt of a notice to consider the exclusion.

- If a pupil has a number of lunchtime exclusions in any one term which add up to more than five school days, the rules above also apply.
- The parents, the Headteacher (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 committee should not discuss the exclusion with any party outside the meeting.
- The committee should identify the steps they will take to enable and encourage the excluded pupil to attend the meeting and speak on his or her own behalf if they are able.

### Conduct of the meeting

The meeting will be conducted as follows:

1. No party to the review will be alone with the committee before, during or after the meeting.
2. 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 reinstate the pupil.
3. The school representative, usually the Headteacher, will present the school's case. He/she can be questioned by all the other parties.
4. The parents will be asked to give their reasons for appealing. Very often it is the friend/advisor (who may be a lawyer) who presents the parents' case.
5. The parents and the pupil, if present, will still be asked if they have anything to add.
6. The other parties may question the parent and/or comment on what the family has said.
7. The school sums up its case.
8. The parents or their representative sum up their case.
9. 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, 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.

### 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 Headteacher'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 Headteacher'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 Headteacher's decision to exclude was justified.
- They can either uphold the exclusion, which will have to run its course.
- Direct the pupil's reinstatement either immediately or on a named date,

The committee, through the Clerk, must inform the parents and the Headteacher 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 Headteacher 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 meeting with the Headteacher or another senior member of staff, responsible for the pupil's welfare, along with his/her parents.

### **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 Local Governing Body's views on the exclusion will be placed on the pupil's school record with copies of relevant papers.

### Independent review panels

We advise parents that they can request a review of the decision by the Local Governors' committee to uphold a permanent exclusion. An independent panel can uphold an exclusion but cannot overturn the decision of a committee. The panel can recommend that the Local Governing Body reconsiders its decision, taking account of the findings of the panel. If the panel has grounds for believing that the Local Governing Body's decision was flawed, they can direct the Local Governing Body to reconsider their decision.

CfBT Schools Trust recommends that schools convene independent review panels from Clerks' Associates ([www.clerksassociates.co.uk](http://www.clerksassociates.co.uk) 0208 920 366), or a Local Authority.

### 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 Headteacher 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 Local 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 reinstated.

Should the Local Authority (LA) wish to 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 Local Governing Body may refuse to take them.

### 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. 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 conduct.

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 Local Governors' committee.

### 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 Local Governors' committee and then an independent review panel.

If an independent review panel directs the Local Governing Body to reconsider a permanent exclusion, but the Local 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.

### **Relationship to other school policies**

The Exclusion Policy should be read in tandem with the school's Behaviour Policy as well as other relevant school policies, particularly the Inclusion Policy, Special Educational Needs Policy and the Equality & Diversity Policy. It also has a close inter-relationship with the Anti-bullying Policy and Attendance Policy.