

Bay Education Trust

Exclusion Policy

Approved by Bay Education Trust Board:

26th January 2016

Next Review due: January 2017

It is the responsibility of all Bay Education Trust employees and volunteers to familiarise themselves with the contents of all Trust policies and any amendments hereafter.

Policy History

This Policy has been written in line with "Exclusions from Maintained Schools, Academies and Pupil Referral Units in England 1st September 2012 and Statutory Guidance School Exclusion 20th June 2012 – updated 10th February 2015.

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Bay Education Trust

1. Introduction

1.1 A decision to exclude a pupil should be taken only:

- a) in response to serious breaches of the academy's Code of Conduct and Promoting Positive Behaviour Policy and
- b) if allowing the pupil to remain in the academy would seriously harm the education or welfare of members of the academy.

1.2 Only the Principal, or in the absence of the Principal the designated member of the teaching staff who is acting in that role, can exclude a pupil.

1.3 A decision to exclude a child permanently is a serious one. It will usually be the final step in a process for dealing with disciplinary offences following a wide range of other strategies, which have been tried without success. It is an acknowledgement by the academy that it has exhausted all available strategies for dealing with the pupil and should normally be used as a very last resort.

Whenever possible, in conjunction with the children's parents, an alternative educational provision would be put in place to avoid a permanent exclusion.

1.4 There will however be exceptional circumstances when, in the Principal's judgment, it is appropriate to permanently exclude a pupil for a first or one off offence. These might include:

- a) serious actual or threatened violence against another pupil or a member of staff
- b) sexual abuse or assault
- c) supplying an illegal drug
- a) carrying an offensive weapon

The academy will in most cases inform the police when such a criminal offence has taken place. They will also consider whether or not to inform other agencies, e.g. Youth Offending Team, social workers, etc. In the case of a looked after child the social worker will always be informed.

1.5 These instances are not exhaustive, but indicate the severity of such offences and the fact that such behaviour can affect the discipline and well-being of the academy community.

1.6 In cases when the Principal has permanently excluded a pupil for:

- a) one of the above offences, or
- b) persistent and defiant misbehaviour, including bullying (which includes racist or homophobic bullying), or repeated possession and/or use of an illegal drug on academy premises,

the Secretary of State would **NOT** normally expect the Trust board's discipline committee or an independent appeal panel to reinstate the pupil.

2. Drug-related exclusions

2.1 In making a decision on whether or not to exclude for a drug-related offence, the Principal will have regard to the academy's published policy on drugs. The decision will also depend on the

precise circumstances of the case and the evidence available. In some cases fixed-period exclusion will be more appropriate than permanent exclusion. In more serious cases, an assessment of the incident will be made against criteria set out in the academy's policy. This will be a key factor in determining whether permanent exclusion is an appropriate course of action.

3. Factors taken into consideration before making a decision to exclude

3.1 Exclusion will not be imposed in the heat of the moment, unless there is an immediate threat to the safety of others in the academy or the pupil concerned. Before deciding whether to exclude a pupil, either permanently or for a fixed period, the Principal will:

- a) ensure that an appropriate investigation has been carried out;
- b) consider all the evidence available to support the allegations, taking account of the academy's behaviour and equal opportunities policies, and, where applicable, the Equalities Act 2010;
- c) allow the pupil to give his or her version of events;
- b) check whether the incident may have been provoked, for example by bullying or by racial or sexual harassment;
- c) if necessary consult others, but not anyone who may later have a role in reviewing the Principal's decision, for example a member of the Trust board's discipline committee.

3.2 If satisfied that, on the balance of probabilities (civil standard of proof), the pupil did what he or she is alleged to have done, the Principal may exclude the pupil.

3.3 Where a police investigation leading to possible criminal proceedings has been initiated, the evidence available may be very limited. However, it should still in most cases be possible for the Principal to make a judgement on whether to exclude the pupil.

4. Alternatives to exclusion

4.1 Exclusion should not be used if there are possible alternative solutions available. Examples of alternatives to exclusion that may be tried include the following:

- a) using a restorative justice process, which enables an offender to redress the harm that has been done to a victim, and enables all parties with a stake in the outcome to participate fully in the process;
- b) use of the academy's promoting positive behaviour strategies for a specific period of time.
- c) a managed move. If the academy feels that it can no longer manage the behaviour of a particular pupil, the academy may ask another school to take over his or her education. This should only be done with the full knowledge and cooperation of all parties involved, including the parents and when appropriate Children's Services, and in circumstances where it is in the best interests of the pupil concerned. Parents should never be pressured into removing their child from an academy under threat of a permanent exclusion, nor should pupils be deleted from the academy roll to encourage them to find another academy place. Section 119 to 120 Guidance on Applying the Education Pupil Registration Regulations June 2008, details the only lawful grounds for deleting a pupil's name from the academy roll.

5. When exclusion is not appropriate

5.1 Exclusion should not be used for:

- a) minor incidents such as failure to do homework or to bring in PE kit
- b) poor academic performance
- c) lateness or truancy
- d) pregnancy
- e) breaches of academy uniform rules or rules on appearance (including jewellery and hairstyle), except where these are persistent and in open defiance of such rules
- f) punishing pupils for the behaviour of their parents, for example when parents refuse or are unable to attend a meeting

6. Length of fixed period exclusions

6.1 The Principal can exclude a pupil for one or more fixed periods not exceeding 45 school days in any one school year. However, individual exclusions should be for the shortest time necessary, bearing in mind that exclusions of more than a day or two make it more difficult for the pupil to reintegrate into the academy. In exceptional circumstances, usually when further evidence comes to light, a fixed term exclusion may be extended or converted to a permanent exclusion. Ofsted inspection evidence suggests that one to three days is often long enough to secure the benefits of exclusion without adverse educational consequences. Exclusions may not be given for an unspecified period, for example until a meeting can be arranged. Such a practice amounts to an indefinite exclusion, for which no legal arrangements exist.

6.2 The academy's obligation to provide education continues while the pupil is on the roll, and must be met during a fixed term exclusion. In all cases of a day or more exclusion, work should be set and marked.

If the exclusion is longer than 5 days, from the 6th day onwards, the academy has a legal obligation to provide the pupil with a 25 hour per week structured education.

7. Lunchtime exclusion

7.1 Pupils whose behaviour at lunchtime is disruptive may be excluded from the academy premises for the duration of the lunchtime period. A lunch time exclusion is a fixed-period exclusion (equivalent to one half academy day) and should be treated as such. Parents have the same right to be given information and to appeal. A lunch time exclusion for an indefinite period, like any other indefinite exclusion, would not be lawful. Arrangements should be made for pupils who are entitled to free school meals. This may mean providing a packed lunch.

7.2 The Secretary of State does not expect to see lunch-time exclusion used for a prolonged period.

8. Parental cooperation

- 8.1 If a parent refuses to cooperate with a formal exclusion by sending the excluded child to school, or refusing to collect or arrange collection of him or her at lunchtime, the academy must have due regard for the pupil's safety in deciding what action to take. An exclusion should not be enforced if doing so may put the safety of the pupil at risk. If efforts to resolve the issue with the parents are unsuccessful, the academy will involve Children's Services to address the matter.

9. Procedures for review and appeal

- 9.1 The Trust board has established arrangements to review promptly all permanent exclusions from the academy, and all fixed-term exclusions which would lead to a pupil being excluded for over 15 days in a school term, or missing a public examination. The Trust board has also established arrangements to review fixed-term exclusions that would lead to a pupil being excluded for over five days but not over 15 days in a school term, if the parent has expressed a wish to make representations. They must decide whether or not to reinstate the pupil if appropriate, or whether the Principal's decision to exclude the pupil was justified. This role will currently be discharged by the discipline committee.
- 9.2 If an appeal is lodged, Bay Education Trust must make arrangements for independent appeal panels to hear appeals against permanent exclusions if the discipline committee does not direct reinstatement.
- 9.3 In the case of a fixed period exclusion which does not bring the pupil's total number of days of exclusion to more than five in a term, the Trust board must consider any representations made by parents, but it cannot direct reinstatement and is not required to arrange a meeting with parents.

10. Procedures following permanent exclusion

- 10.1 In the case of a permanent exclusion, the pupil remains on the roll of the academy until any appeal is determined, the time limit for an appeal has expired without an appeal being brought, or the parent has told Bay Education Trust that no appeal is to be brought. Again, while the pupil is on the roll of the academy it is the responsibility of the academy that his or her education continues, but, as in the case of longer fixed-term exclusions, it may be necessary for the academy to seek help from alternative sources.
- 10.2 Once a permanent exclusion has been endorsed by the discipline committee, the local authority should arrange to assess the pupil's needs and how to meet them, including any special educational needs the pupil may have. Once the pupil is removed from roll, the local authority is responsible for ensuring that suitable education is made available. This will be the home local authority in instances that the pupil is maintained by a different local authority. Since September 2002, all local authorities are committed to ensuring that all permanently excluded pupils receive full time education, either at another school, or, where necessary, making use of a pupil referral unit or other alternative provision.

11. Reintegration meetings

- 11.1 A reintegration meeting with parents following the expiry of a fixed period exclusion is a legal requirement (Education and Inspections Act 2006). However, a fixed period exclusion should not be extended if such a meeting cannot be arranged in time, or the parents do not attend.

12. Behaviour outside school

12.1 Pupils' behaviour outside school but on school business, for example on school trips, away sports fixtures or work experience placements, is subject to the academy's promoting positive behaviour policy. Bad behaviour in these circumstances should be dealt with as if it had taken place in the academy. For behaviour outside school, but not on school business, the Principal may exclude a pupil if there is a clear link between that behaviour and maintaining good behaviour and discipline among the pupil body as a whole. This will be a matter of judgment for the Principal. Pupils' behaviour in the immediate vicinity of the academy or on a journey to or from the academy can, for example, be grounds for exclusion.

13. Pupils with special educational needs and disability (SEND)

13.1 Statutory guidance on identifying, assessing and making provision for pupils with SEND, including those with behavioural, social and emotional needs, is given in the Special Educational Needs Code of Practice (2015). The Trust board has a statutory duty to do their best to ensure that the necessary provision is made for any pupil who has SEND.

13.2 Other than in the most exceptional circumstances, the academy will avoid permanently excluding pupils with statements. They will also make every effort to avoid excluding pupils who are receiving SEND support under the Special Educational Needs Code of Practice, including those who are being assessed for an Educational Health and Care Plan. In most cases, the Principal will be aware that the academy is having difficulty managing a pupil's behaviour well before the situation has escalated. The academy will try every practicable means to maintain the pupil in school, including seeking local authority and other professional advice and SEND support, or, where appropriate, carrying out a statutory assessment. For a pupil with a statement, if this process has been exhausted, the academy will initiate an interim annual review of the pupil's statement to avoid exclusion.

13.3 If a pupil is permanently excluded, the Principal will use the period between his or her initial decision and the meeting of the discipline committee to work with the local authority, to see whether more support can be made available or whether the statement can be changed to name a new school. If either of these options is possible, the Principal will normally withdraw the exclusion.

13.4 It is extremely important that parents of children with SEND who are excluded from the academy receive advice on the options available for their child's future education.

14. Disabled pupils

14.1 The academy has a legal duty under the Equalities Act 2010 not to discriminate against disabled pupils by excluding them from school because of their disability. This applies to permanent and fixed-term exclusions. The definition of disability under the Act covers pupils with physical, sensory, intellectual or mental impairments. Discrimination means treating disabled pupils less favourably than other pupils without justification. It also means failing to take reasonable steps to ensure that disabled pupils are not placed at a substantial disadvantage compared to their non-disabled peers. What constitutes a reasonable step will depend on the circumstances of each case.

14.2 Appeals against permanent exclusion when discrimination is alleged to have taken place, or the disabled pupil has been placed at a substantial disadvantage by the exclusion procedures, will be heard by the independent appeal panel. Claims alleging discrimination in respect of fixed-period

exclusions will be heard by the SEN and Disability Tribunal. The academy will be required, in disability discrimination claims, to demonstrate that their actions are justified and that there are no reasonable adjustments to their policies and practice they might have made to prevent the incident which led to the exclusion. Since many disabled pupils will also have special educational needs, schools may wish to consider the action they have taken to address those needs in this context.

15. Race relations

15.1 The amended Equalities Act 2010 places a general duty on the school to have due regard to the need to eliminate unlawful racial discrimination and promote equality of opportunity and good relations between people of different racial groups. The Equalities Action 2010 also places a number of specific duties on schools, including duties to assess the impact of policies and to monitor the operation of those policies on pupils, parents and staff from different racial groups.

15.2 This legislation requires the academy to take steps to ensure that they will not discriminate against pupils on racial grounds when making a decision about whether to exclude a pupil. The academy will monitor by ethnicity to ensure that they do not treat some groups of pupils more harshly than others. The academy will assess whether policies that lead to sanctions, including exclusion, have a disproportionately adverse impact on pupils from particular racial groups. If adverse impact is identified and this cannot be justified, then the policy should be revised.

16. Looked after children

16.1 Looked after children are especially at risk of low attainment in school. The academy is especially sensitive to exclusion issues when children in public care are concerned. The academy will try every practicable means to maintain the child in the academy and should seek local authority and other professional advice as appropriate. Social Services will, in all cases, be involved at the earliest opportunity in working with the academy to avoid the need to exclude the pupil.

16.2 In instances that a child in care is excluded, anyone who is seen as a parent will have the right to make representations and to appeal. The definition of a parent for the purposes of the Education Acts is broadly drawn and includes a person who has parental responsibility (which includes the local authority where they have a care order in respect of the child) and any person (for example, a foster parent) with whom the child lives. These are in addition to the child's birth parent(s). This means that there could be more than two people whom the academy has to notify about exclusions and who will have the right to make representations and appeal.

16.3 Social workers of looked after children should always be informed of fixed term or permanent exclusions.

16.4 If the pupil resides in another authority from the one the school is in, the home authority must be kept informed of all exclusion matters.

16.5 **Children who have a child protection plan** – the social worker of any child with a child protection plan will be informed of any exclusion.

17. Role of the Secretary of State

17.1 The Secretary of State provides guidance on exclusion, to which Principals, teachers in charge of a pupil referral unit, Governing Bodies/Trust Boards, local authorities and independent appeal panels must have regard. He can consider complaints about the discipline committee's operation

of the exclusion procedure. He has no power to consider complaints about the decision of an independent appeal panel.

18. Related documents

The principle legislation to which this guidance relates is:

- The Education Act 2002, as amended by the Education Act 2011
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- The Education and Inspections Act 2006
- The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007 (Amended Regulations 2014)
- Statutory guidance Behaviour and Discipline in Schools -Guidance for Governors, 17th July 2014 updated 24th September 2015

19. Evaluation of the Policy

The Trust board will evaluate the effectiveness of the policy by reviewing the exclusion statistics in the academy on a regular basis. This will include the breakdown of data by:

- Year group,
- Gender
- Minority ethnic groups
- Children in care
- Disadvantaged pupils
- Pupils with special educational needs
- Transient pupils
- Low, middle and high band pupils