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# **Diocese of Bristol Academies Trust**

# **Exclusions Policy**

**Type:** Other

**Level:** 1

**Date Adopted:**

**Main Board - 16<sup>th</sup> September 2015**

**Joint Local Board - 23<sup>rd</sup> January 2017**

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## 1. PART 1: GENERAL APPROACH TO BEHAVIOUR AND EXCLUSIONS

- 1.1. The Main Board of the Diocese of Bristol Academies Trust (“**DBAT**”) is ultimately accountable for the behaviour and safety of all pupils at the academies run by DBAT (the “**Academies**”).
- 1.2. Day-to-day responsibility for the behaviour and safety of pupils within each of the Academies is delegated to the Local Board or Principal (as appropriate). This includes:
- preparing and/or implementing an effective behaviour policy and relevant related policies and procedures e.g. Anti-Bullying, Attendance, Drug Misuse, Equality and Diversity, Special Educational Needs (SEN) and Spiritual Moral Social and Cultural policies
  - monitoring the effectiveness of the Academy’s behaviour policy and related policies
- 1.3. DBAT Academies have strong values that are taught and referred to regularly. Respect for others features strongly: it protects individuals and is based on Christian principles that feature in many aspects of social life. DBAT Academies seek to be inclusive whenever possible. Research into discipline in schools from the 1989 Elton Report onward has provided clear evidence that promoting and modelling good behaviour is far more effective than concentrating on sanctions and the Board would encourage DBAT Academies to adopt this approach. Poor behaviour may be the result of inappropriate provision so faced with persistent poor behaviour an Academy should do its utmost to establish and address the cause rather than applying sanctions to the symptoms.
- 1.4. DBAT supports its Academies in using formal exclusion as a behavioural sanction where it is warranted. This is always as a last resort when there is clear evidence that systematic approaches have been tried to modify behaviour without achieving the necessary results.
- 1.5. **The responsibilities of the Principal.** Below are some key points from the DfE Advice on Exclusions (Exclusions from maintained schools Academies and pupil referral units in England - updated February 2015);
- only the Principal, or someone acting in the role of Principal, can exclude a pupil;
  - a pupil can only be excluded on disciplinary grounds in response to a serious breach or persistent breaches of the Academy’s behaviour policy, where allowing the pupil to remain in the Academy would seriously harm the education or welfare of the pupil or others in the Academy;
  - a pupil whose disruptive behaviour takes place at lunchtime may be excluded for the lunchtime period only;
  - behaviour out of school can be grounds for exclusions;

- it is essential that the Principal conducts a thorough investigation of the case to establish the facts, including giving the pupil an opportunity to provide their account of what has taken place, before reaching a decision;
- in establishing the facts the Principal must use “on the balance of probability it is most likely the facts are true” as the burden of proof rather than “beyond reasonable doubt”;
- 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, such as disability or race. Principals should give particular consideration to the fair treatment of pupils from groups who are vulnerable to exclusion not only in the conduct of the case, but ensuring that behaviour policies do not discriminate against such pupils.
- before exclusion, the Principal must check that the pupil is not subject to a Child Protection Plan, Early Help or social worker involvement and consider very carefully whether the level of risk to the pupil could be increased by exclusion.
- in considering the exclusion of a pupil with special educational needs, the Principal must ensure they fulfil their duties under the SEND Code of Conduct and make every effort to engage the parents in the process;
- the Principal may withdraw an exclusion that has not been reviewed by the Local Board; this might occur if new information comes to light that may cause the Principal to review the original decision;
- if the Principal wishes to send a pupil home from the Academy they must take account of their legal duty of care.

1.6. Permanent exclusion will only be authorised where it is used as a last resort, in response to a serious breach, or persistent breaches, of the Academy’s behaviour policy and where allowing the pupil to remain in the Academy would seriously harm the education or welfare of the pupil or others in the Academy.

1.7. Under no circumstances will DBAT sanction an Academy’s use of ‘informal’ or ‘unofficial’ exclusions, such as sending a pupil home ‘to cool off’. Such exclusions are unlawful, regardless of whether they occur with the agreement of the pupil’s parents/carers.

1.8. DBAT, the Local Board and the Principal shall follow and have regard at all times to the latest guidance on behaviour and exclusions issued by the Department for Education currently “Exclusions from mainstream schools, Academies and pupil referral units in England” (updated February 2015).

## **2. PART 2: INFORMING PARENTS ABOUT EXCLUSION**

2.1. The Principal must inform the parents in writing without delay;

- the reason for the exclusion;
- whether it is a fixed term exclusion, and if so for how long, or a permanent exclusion;
- the parents’ right to make representations to the Local Board and how they can do so;
- where there is a legal right for governors to consider the exclusion the parent’s legal right to attend the meeting and bring a friend;

- what arrangements will be made for the pupil to continue their education during the period of exclusion including any alternative provision;
- if the excluded pupil is of compulsory school age then for the first five days of the exclusion or until a the pupil returns to school or alternative provision starts the parent is responsible for ensuring that the pupil is not present in any public space during school hours.

A model letter for this is provided in Appendix 1.

- 2.2 This written notification may be delivered to the parent at their last known address or posted to it. Principals are encouraged in addition to the written communication to phone, text or email to ensure the information reaches parents quickly. The information should be clear, easy to understand and should take account if the parents' first language is not English. It should also draw their attention to the sources of free and impartial advice outlined in the guidance.

### **3. PART 3: NOTIFICATION OF BOARDS ABOUT EXCLUSIONS**

- 3.1. The Principal of an Academy shall, without delay, notify the Chair of the Main Board and the Local Board of the Academy of:
- a permanent exclusion (including where a fixed period exclusion is made permanent)
  - exclusions which would result in the pupil being excluded for more than five school days (or more than ten lunchtimes) in a term
  - exclusions which would result in the pupil missing a public examination or national curriculum test
- 3.2. For all other exclusions the Principal must provide a written report to the Chair of the Main Board and the Chair of the Local Board of the Academy once a term.
- 3.3. This report must include the reasons for the exclusion, the duration of any fixed period exclusion, the age, gender and ethnicity of a pupil and whether they would be considered disadvantaged e.g. in receipt of the Pupil Premium or have a degree of Special Educational Needs.

### **4. PART 4: DUTY TO ARRANGE EDUCATION FOR EXCLUDED PUPILS**

- 4.1. DBAT believes in the importance of minimising the disruption that exclusion can cause to a pupil's education. We therefore strongly encourage our Academies to take all possible steps to set and mark work for excluded pupils, regardless of the length of the exclusion. We also encourage our Academies to exercise their discretion to allow an excluded pupil on the Academy's premises for the purpose of undertaking public examinations or national curriculum tests, unless doing so would seriously harm the education or welfare of the pupil or others in the Academy.

- 4.2. For a fixed period exclusion of more than 5 school days, the Local Board has a legal duty to arrange suitable fulltime education for any pupil of compulsory school age. This provision must begin no later than the 6<sup>th</sup> day of the exclusion.
- 4.3. For permanent exclusions, the local authority must arrange suitable full-time education for the pupil to begin no later than the 6<sup>th</sup> day of the exclusion.

## **5. PART 5: BOARD REVIEW PANEL**

### Responsibility to convene a Board Review Panel

- 5.1. It shall be the responsibility of the Clerk to the Local Board to convene a Board Review Panel within 15 school days of a request being made by parents..
- 5.2. Whether or not it is requested by the pupil's parents/carers, a Board Review Panel must be convened to consider the reinstatement of an excluded pupil within 15 school days of receiving notice of the exclusion where:
- a permanent exclusion (including where a fixed period exclusion is made permanent)
  - exclusions which would result in the pupil being excluded for more than 15 school days (or more than 10 lunchtimes) in a term
  - exclusions which would result in the pupil missing a public examination or national curriculum test.
- 5.3. If requested to do so by the pupil's parents/carers, a Board Review Panel must be convened to consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion if a pupil would be excluded for more than 5 school days, but not more than 15, in a single term.
- 5.4. In the case of a fixed period exclusion which does not bring the pupil's total number of days of exclusion to more than 5 in a term, a Board Review Panel must be convened to consider any representations made by parents/carers, but it cannot direct reinstatement and is not required to arrange a meeting with parents/carers.
- 5.5. Where exclusion would cause a pupil to miss a public examination or a national curriculum test the Local Board is required to consider the case before the date of the examination or test if at all possible. If this is not practicable then the chair of the Local Board may consider the exclusion independently and decide whether or not to reinstate the pupil.

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### Members of the Board Review Panel

- 5.6. Unless otherwise specified by the Main Board, a Board Review Panel convened under paragraph 5.2 above shall be made up of two Local Board members and where possible one DBAT Director, none of which have had any prior involvement in the matter. If no Director is available their place may be taken by a DBAT officer or failing that a Local Foundation Governor. A Board Review Panel convened under paragraphs 5.3 and 5.4 above shall be made up of three Local Board Members only, with no prior involvement in the matter. The Clerk shall appoint one of these members to be the Chair of the Board Review Panel.
- 5.7. Members of the Board Review Panel should be advised not to discuss the exclusion with any party outside of the meeting or to ask for any additional written evidence in advance of the meeting.

### Parties attending Board Review Hearing

- 5.8 The parents/carers of the pupil and the Principal of the Academy shall be invited to the Board Review Meeting and allowed to make representations.
- 5.9 Parents/carers should be informed of their right to be accompanied to the meeting by a friend, relative, advocate or interpreter.
- 5.10 Where possible, the excluded pupil should be enabled and encouraged to attend the meeting and speak on his/her own behalf, taking into account the pupil's age and understanding. Where this is not appropriate, the excluded pupil should be given the opportunity to feed in his / her views by other means such as setting their views out in writing.
- 5.11 The Board Review Panel is under no obligation to hear oral evidence from witnesses but may do so and/or may take written statements into account. Should either party wish to bring witnesses to the hearing, the names of these witnesses shall be provided to the Clerk to the Local Board at least 5 school days before the hearing. The party calling the witness is responsible for informing the witness of the time, date and location of the hearing.
- 5.12 Where a pupil under the age of 18 is invited to be a witness, the party seeking to bring the witness should first seek the consent of that pupil's parents and confirm to the Clerk that consent has been given. The Clerk should ensure that the parents are invited to accompany their child to the hearing.
- 5.13 Every effort will be made to arrange the meeting for a time and date that is convenient to all parties but in compliance with the relevant statutory time limits set out above.

5.14 The Clerk to the Local Board is responsible for ensuring that reasonable adjustments are made where needed to support the attendance and contribution of all parties at the meeting (for example where a parent or pupil has a disability in relation to mobility or communication that impacts upon their ability to attend the meeting or to make representations).

#### Information to be provided in advance

5.15 As soon as reasonably practicable and in any event at least 5 school days before the hearing, the Principal and parents of the excluded pupil shall be sent written notification of the date, time and place of the hearing, together with brief details of the Board Review Panel members who will be present.

5.16 The Principal and the parents of the excluded pupil should provide to the Clerk the names of all witnesses and copies of all documents, written evidence or information which they wish the Panel to consider at least 7 school days before the hearing. The Panel reserves the right not to consider any documentation presented by either party less than 5 school days prior to the hearing. This information and copies of these documents shall be provided to the other party at least 5 school days before the hearing.

#### Conduct of the hearing

5.17 The Clerk to the Local Board shall ensure that clear minutes are taken of the hearing as a record of the evidence that was considered by the Board Review Panel. Copies of these minutes shall be made available to all parties on request.

5.18 The hearing will be conducted in such a way as to ensure that all those present have the opportunity to present their case, ask questions and make comments in an appropriate manner. The meeting will allow for:

- The Principal to explain the reasons for the exclusion and the parents to set out their response
- The opportunity for both parties to ask questions of each other about the exclusion
- Panel members to have an opportunity to question both the Principal and the parents
- Any party to call witnesses (subject to the prior approval of the Panel) and all parties having the right to question any witnesses
- Final statements by both the Principal and the parents

- 5.19 When establishing the facts in relation to an exclusion decision the Board Review Panel must apply the civil standard of proof; i.e. 'on the balance of probabilities' it is more likely than not that a fact is true rather than the criminal standard of 'beyond reasonable doubt'.
- 5.20 The Board Review Panel should consider:
- whether the Principal's decision to exclude the pupil was lawful, reasonable and procedurally fair, taking account of the head teacher's legal duties
  - the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded
  - the interests of other pupils and people working at the school
- 5.21 After the hearing all other parties will withdraw, the Board Review Panel will then consider their decision and inform all parties of their decision in writing without delay and within at least 5 school days. The Panel can (by a majority if necessary):
- Uphold the exclusions; or
  - Direct reinstatement of the pupil immediately or on a particular date
- 5.22 The Panel must write to the parents without delay ensuring that the reasons for their decision are set out in sufficient detail to enable all parties to understand why the decision was made. When the Panel upholds an exclusion it must draw the parents attention to their right to appeal to an Independent Review Panel and the free sources of information to enable them to decide whether to do this. In the case of a permanent exclusion the letter to the parents must also include the prescribed information as set out in the Department for Education guidance, including the deadlines for lodging an appeal and the parents' right to have an SEN expert appointed to attend the Panel.
- 5.23 When a permanent exclusion has been upheld then a Principal must remove the pupil's name from Academy's admissions register if 15 days have elapsed since the parents were notified and no appeal has been lodged or they have indicated in writing they do not wish to appeal. If an appeal is lodged the pupil must remain on the register until the appeal has been reviewed using code B or D if they are attending alternative provision and E if they are not.
- 5.24 In cases where the governing body considers parents' representations but does not have the power to direct a pupil's reinstatement, they should consider whether it would be appropriate to place a note of their findings on the pupil's educational record.

## **6. PART 6: INDEPENDENT REVIEW PANELS**

- 6.1 If applied for by parents within the legal time frame, the Trust must, at their own expense, arrange for an independent review panel hearing to review the decision of a governing body not to reinstate a permanently excluded pupil.
- 6.2 If this situation were to arise the Principal must immediately contact DBAT's Commercial Manager who will arrange for the panel to be set up.

- 6.3 Detailed guidance on the operation of Independent Review Panels is set out in Part 8 of the DfE Guidance “Exclusion from maintained schools, Academies and pupil referral units in England” (2015).

## **7. PART 7: MONITORING EXCLUSIONS**

- 7.1 Under the Equality Act 2010 Academies must not discriminate against pupils. Certain groups of pupils appear to be statistically more likely to be excluded. It is, very important for Academies to keep and analyse accurate data about the pupils they exclude. The Principal should use the termly reports to present to the Local Board an annual analysis of exclusions with an explanation of way any groups might appear to be over-represented. This will provide important evidence for the Academy’s compliance with the Equality Act.

## Appendix 1

### Example of a letter informing parents of a fixed term exclusion

Re: XX      Date of Birth: XX      Year:

Dear ,

I am writing to inform you of my decision to exclude XXX for a fixed period of X day(s). The exclusion begins on (day and date of the start of the exclusion) and ends (day and date of the end of the exclusion). S/he will be able to return to school on (day and date of readmission).

I realise that this exclusion may be upsetting for XXX, you and your family, but the decision to exclude has not been taken lightly. XXX has been excluded for this fixed period because of:

(Description of the incident below is an example)

- An escalation of challenging behaviour, including violence towards members of staff: biting, kicking and scratching, resulting in bruising and scratches on an adult;
- Throwing a chair towards a member of staff;

**I am sure you can understand that this behaviour is completely unacceptable and I hope you will work with us to prevent it being repeated.**

We can set work for XXXX for the period of her exclusion should you wish. Please let us know if you require this and arrangements will be made for you to collect it.

It is my responsibility to make you aware that during this day of exclusion as the parent you are legally required to ensure that XXXX is not present in a public place during school hours without reasonable justification and that you may be given a fixed penalty notice or prosecuted if you fail to do so.

You have the right to make representations about this decision to the Local Board of governors. If you wish to make representations, please contact the Chair of the Local Board, XXXX c/o XXXX CE Academy as soon as possible. Whilst the Local Board has no power to direct reinstatement, they must consider any representations you make and may place a copy of their findings on your child's school record.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to appeal, and/or make a claim,

to the SEN and Disability Tribunal (SENDIST). The address to which appeals should be sent is SENDIST, Mowden Hall, Staindrop Road, Darlington DL3 9DN.

(Provide the details of whom appropriate to contact at your Local Authority)

You may wish to contact a local authority Education Welfare Officer (tel yyyyyyyyyyy) who can provide advice. You may also find it useful to contact the Advisory Centre for Education (ACE) - an independent national advice centre for parents of children in state schools. They offer information and support on state education in England and Wales, including exclusions from school. They can be contacted on 020 7704 9822 or at [www.ace-ed.org.uk](http://www.ace-ed.org.uk)

We would like to meet you again on (day, date and time of the readmission meeting) to discuss her reintegration and the next steps. It is essential that we work together to ensure we are able to provide XXX with the best possible support and for us to understand the underlying reasons for her behaviours.

Yours sincerely

Principal