

# EXCLUSIONS POLICY

## INTRODUCTION

Gosforth Federated Academies are inclusive academies, committed to recognition of the equal value of each student in the Academies. Exclusion is intended to be used only sparingly as part of an overall behaviour strategy which seeks to develop the culture of inclusion, ownership and responsibility for one's own behaviour. The Academies seek to avoid permanent exclusions. These will take place only for very serious incidents or when other strategies have been tried and have failed over time.

In discharging their duties the Executive Headteacher and Trustees of Gosforth Federated Academies have regard to the most recent statutory guidance on exclusions.

Other relevant legislation includes:

- The Education Act 2002, as amended by the Education Act 2011;
- The School Discipline Regulations 2012;
- The Education and Inspections Act 2006;
- The Education (provision of full-time education for excluded pupils) (England) Regulations 2007;
- Exclusions from maintained schools, Academies and pupil referral units in England 2012.

## 1 ACTION TO BE INVOKED BY PASTORAL AND SENIOR STAFF IN SERIOUS DISCIPLINARY MATTERS

- i. Over serious matters a pastoral or senior member of staff may require the student to attend an investigatory meeting. The student will be questioned fairly and be given ample opportunity to give a response. The student will be encouraged to provide a written statement of what happened and offered the opportunity to sign this as an authoritative record of events. At this stage this report will help to enable Gosforth Academy decide on what further action should be undertaken.
- ii. A decision to exclude a student will only be taken:
  - in response to serious breach or persistent breaches of Gosforth Academy's Behaviour and Rewards policy.
  - if allowing the student to remain in Gosforth Academy would seriously harm the learning or welfare of the student, other students or adults in the school; or
  - in cases where there has been a major breach of normal expectations of conduct or a breach of the criminal law.

- iii. Before permanently excluding a student, in most cases a range of alternative strategies will have been tried.
- iv. The behaviour of pupils outside school can be considered as grounds for exclusion.

## **2 RESPONSIBILITIES OF THE HEAD OF SCHOOL**

- i. The Head of School has the authority to exclude students.
- ii. In considering excluding a student the Head of School will ensure that:
  - a thorough investigation has been undertaken;
  - all the relevant facts and evidence have been considered;
  - all students involved, including those students with learning difficulties, have the opportunity to give their version of events;
  - there has been consultation with other people or relevant agencies involved except where they may be involved in any review of the exclusion that has taken place; and
  - time has been given where necessary to addressing and supporting the student's individual needs/problems within the capabilities of Gosforth Academy.
- iii. Before deciding to exclude a student permanently the Head of School will normally first try a range of strategies including fixed term exclusion. Normally only when other strategies have been tried without success will the Head of School consider permanent exclusion.
- iv. There are occasions when the severity of the offence will merit permanent exclusion, even when there has been no record of previous poor behaviour.
- v. The Head of School will aim for the shortest appropriate period of exclusion but however brief the following will be in place:
  - arrangements for the student to continue his or her education, (normally from the first day (LAC) or 6th day at an alternative Academy or school); and
  - preparation for the process of reintegration.
- vi. The Head of School may exclude a student for up to 45 school days in any academic year. Any exclusion beyond 45 school days will be permanent. However before that point is reached the Head of School or designated senior member of staff will have held discussions with the relevant LA and parents with a view to arranging an appropriate placement in another school.
- vii. When establishing the facts in relation to an exclusion decision, the Head of School must apply the civil standard of proof; i.e. 'on the balance of probabilities'.

### **3 INFORMING PARENTS ABOUT THE EXCLUSION**

- i. The Head of School will make sure the parent is notified immediately, ideally by telephone, and that the telephone call is followed by a letter.
- ii. Letters about fixed period and permanent exclusions will explain:
  - why the Head of School decided to exclude the student;
  - the arrangements for enabling the student to continue his/her education, including setting and marking the student's work;
  - the parents' right to state their case to the Local Advisory Group's Discipline Committee;
  - who the parents should contact if they wish to state their case;
  - the latest date the parents can put a written statement to the Discipline Committee;
  - the parent's right to see and have a copy of their child's record;
  - if the exclusion is for a fixed period, the length of the exclusion and the date and time the student should return to Gosforth Academy;
  - that for the first days of an exclusion (or until the start date of any alternative provision where this is earlier) parents are legally required to ensure that their child is not present in a public place during school hours without reasonable justification and that parents may be given a fixed penalty notice or prosecuted if they fail to do so;
  - if the exclusion is permanent, the date the permanent exclusion takes effect, and details of any relevant previous warnings, fixed period exclusions or other disciplinary measures taken before the present incident; and
  - if the Head of School wishes to extend a fixed period exclusion or, exceptionally, converts a fixed period exclusion into a permanent exclusion, the Head of School will again write to the parent explaining the reasons and making the other points above. Where an exclusion is extended, there will be a new right for the parent to state their case to the Discipline Committee.

### **4 INFORMING THE DISCIPLINE COMMITTEE**

- i. The Head of School will inform the Chair of the Local Advisory Group's Discipline Committee of:
  - all permanent exclusions; and
  - all exclusions which result, separately or in total, in the student missing more than five school days in any one term, or which deny a student the chance to take a public examination.

## **5. RESPONSIBILITIES OF THE LOCAL ADVISORY GROUP**

- i. The Local Advisory Group does not have the right to exclude a student. Local Advisory Group members will review the use of exclusion in Gosforth Academy regularly. The Local Advisory Group will establish a Discipline Committee when required to review the Head of School's decision to exclude.

## **6 THE ROLE OF THE DISCIPLINE COMMITTEE**

- i. The Discipline Committee will consist of three Local Advisory Group members who will review the use of exclusion within Gosforth Academy, including considering the views of the Academy and parents of an excluded student, and deciding whether or not to uphold permanent exclusions, exclusions of more than five school days in a term or those where a student would miss an opportunity to take a public examination. The Local Advisory Group members will appoint a clerk to the Discipline Committee to provide advice on the exclusions process and to handle the administrative arrangements for considering exclusions.
- ii. If the exclusion is for five school days or fewer, the Discipline Committee cannot direct reinstatement but will consider any statement from the parent. If the exclusion would cause the student to miss sitting a public examination the Academy will make alternative arrangements to allow an excluded student to take public examinations if possible. The Discipline Committee is not required to arrange a meeting with parents for exclusions of five days or fewer.
- iii. For permanent exclusions the Discipline Committee will consider the exclusion and decide whether the student should be reinstated. Such consideration will take account of the student's disciplinary record, the strategies used to retain the student in school and the likely impact of his or her continued attendance at Gosforth Academy, as well as the severity of the offence.
- iv. On receiving notice from the Head of School that a student has been excluded for more than five school days, the PA to Head of School should:
  - for an exclusion of between six school days and 15 school days in a term, set up a meeting between the 6th and the 50th school day to consider the exclusion if requested to do so by parents within 50 school days of receiving notice of the exclusion;
  - for an exclusion of over 15 school days in a term, set up a meeting between the 6th and 15th school day after that notice to consider the exclusion;
  - invite the parent to the meeting, at a time and place convenient to all parties as far as possible. The parent may be accompanied by a friend or a legal representative at their request;

- ask for any written statements and other relevant information in advance of the meeting from both the Academy and parents;
  - circulate any written statements and any other information from the Academy and parents at least five days before the meeting, ensuring that the identity of students is concealed if thought appropriate, and a list of those who will be present at the hearing to all parties attending; and
  - unless there are strong reasons to refuse, the chair of the Discipline Committee should allow the excluded student to attend the meeting and present his or her case if the parent and the student ask for this. However, the parent formally remains the appellant unless the student is 18 or over.
- v.** If the student is back at school before the Discipline Committee meets, the meeting still enables the parent to give their views. The Discipline Committee can also consider whether more information should be added to the student's record.
- vi.** If the student is still excluded when the meeting takes place, the Discipline Committee should decide whether to direct reinstatement. In reaching their decision the Committee should:
- i.** consider the parent's statement;
  - ii.** have regard to statutory guidance on the appropriate use of exclusion and Gosforth Academy's Behaviour and Rewards Policy, and consider whether the Head of School has tried sufficient approaches to improve a student's behaviour before resorting to exclusion, and whether any further strategies might be an alternative to exclusion; and
  - iii.** for permanent exclusion, the Discipline Committee should normally satisfy itself that all possible strategies to improve a student's behaviour were tried without success, unless the incident was a major breach of normal expectations of conduct or a breach of the criminal law. Strategies could include pastoral support, alternative provision or a managed move.
- vii.** When establishing the facts in relation to an exclusion decision the Discipline Committee must apply the civil standard of proof. In light of their consideration, the Discipline Committee can either:
- uphold an exclusion; or
  - direct reinstatement of the student immediately or on a particular date.
- viii.** Where reinstatement is not practical because, for example, the student has already returned to school following the expiry of a fixed period of exclusion or the parents make clear they do not want their child reinstated, the Discipline Committee must consider whether the Head of School's decision to exclude to exclude was justified based on the evidence.

- ix. The Discipline Committee will ensure clear minutes are taken of the meeting as a record of the evidence considered. These minutes will be made available to all parties on request.
- x. The Discipline Committee will ask all parties, except the clerk, to withdraw before making a decision.
- xi. In reaching a decision the Discipline Committee will consider whether the decision to exclude was lawful, reasonable and procedurally fair.
- xii. The Discipline Committee will notify parents and the Head of School of their decision in writing and without delay, explaining the reasons for their decision in sufficient detail.
- xiii. If the Discipline Committee upholds the Head of School's decision to exclude a student **permanently**, it will write within one school day to the parent giving the reasons for the decision, explaining the parent's right to have the exclusion reviewed by an independent panel to which the parents can make oral and written statements, giving the name and address of the person the parents should contact if they wish to appeal, explaining that any notice of appeal should explain the grounds of appeal and stating the latest date for giving notice (15 school days from the date of the Discipline Committee's decision). The parent has the right to have a review by a panel even if they did not make a case to the Discipline Committee. The Discipline Committee will also inform the student's home LA within one school day.
- xiv. The Discipline Committee's decision on fixed term exclusions is final. In the case of permanent exclusions, parents may have the exclusion reviewed by an independent panel.
- xv. After the meeting a note of the Discipline Committee's views on the exclusion will be placed on the student's record with a copy of the Head of School's exclusion letter.

## **7 INDEPENDENT REVIEWS OF PERMANENT EXCLUSIONS**

- i. Parents whose child is excluded permanently from Gosforth Academy have the right to have an independent review of the Discipline Committee's decision to uphold the exclusion.
- ii. Any request for a review must be lodged in writing to the Head of School within 15 school days from the date the parent receives notice of the decision. The panel should meet as soon as possible but normally within 15 days of the notification of appeal.

- iii. Following its review the panel can decide to:
- uphold the exclusion decision
  - recommend that the Discipline Committee reconsiders its decision; or
  - quash the decision and direct that the Discipline Committee considers the exclusion again

The Review Panel cannot direct reinstatement of the student.

- iv. The Review Panel will not quash the decision to exclude and direct the Discipline Committee to reconsider purely on minor 'technicalities' relating to prior procedure, where they are persuaded on the merits of the case that the exclusion was justified and would not otherwise direct that the student should be reinstated. The Review Panel may only quash the decision where it considers that it was flawed in the light of the principles applicable on an application for judicial review.

## **8 ARRANGING AN INDEPENDENT REVIEW**

- i. The letter from the Clerk to the Discipline Committee will inform the parents of their right to a review of the decision of the Discipline Committee not to reinstate the permanently excluded student. The letter will give the name and contact details for the PA to the Head of School (who will not be the same person as the Clerk to the Discipline Committee) and explain that the parents request for a review must be in writing and set out the grounds for a review. The letter will tell the parents that the final date for requesting a review will be 15 school days from the date the parent receives notice.
- ii. The day on which the parents are given notice will be taken to be the second school day after the date of posting by first class post. No request will be accepted if it is made after the final date for making a request.
- iii. The Independent Review Panel will comprise three independent panel members plus a clerk appointed by Newcastle Local Authority.
- iv. No Local Advisory Group member, employee of Gosforth Federated Academies, Trust or person who has had any connection with Gosforth Federated Academies, Trust or with the excluded student or with the incident leading to the exclusion, shall serve on the Review Panel. The members of the Panel will comply with statutory requirements and the Panel will be convened by Newcastle Local Authority.

- v. The Review Panel will meet within 15 school days of the date the parents make a request for a review. Those entitled to attend and present their case are:
- the parents, who may be accompanied by a legal or other representative;
  - the Head of School and other school representatives, who may make oral representations;
  - the chair or a nominated member of the Discipline Committee, who may make oral representations; and
  - a legal or other representative of the Discipline Committee.
- vi. The Head of School and Discipline Committee may also make written representations. Wherever possible, the Clerk will make available all written evidence to the panel members and the parent four working days in advance of the hearing. The student, if s/he or his/ her parents so request, will be allowed to attend the hearing and speak on his/her own behalf, unless there is good reason to refuse.

## **9 ROLE OF THE CLERK**

- i. The Review Panel will have a clerk who will serve as an independent source of advice on procedure for all parties to the appeal. He or she will not be the same person who served as a clerk to the prior Discipline Committee hearing.
- ii. When the Review Panel withdraws, or invites the parties to do so, when it wishes to consider its decision, the clerk may remain with the panel, but only for the purpose of offering advice on procedure or law, and recording decisions and reasons.

## **10 PROCEDURE AT THE REVIEW**

- i. The review will not be held at Gosforth Academy. The Review Panel will do everything possible to establish an atmosphere of informality where the parties can present their cases effectively.
- ii. The order of hearing will be notified in advance to the parties. At the start of the hearing the chair or clerk will welcome the parties and introduce those present, pointing out that the panel is independent of Gosforth Federated Academies, and its Trustees and that its decision is binding on them. The clerk will explain the order in which the parties entitled to be heard will state their case and that there will be an opportunity for questioning by the other parties afterwards.
- iii. The panel members may also ask question of the other parties to the review or of any witnesses who appear, in order to clarify an issue or to elicit more information. The aim will be for panel members to ask their questions at the end of each party's statement and following questions by the other parties.



- iv. The clerk may be called on to give legal or procedural advice to the Review Panel during the course of the hearing and when they retire to consider their decision.
- v. Sufficient time will be allowed for each party to put its case. The panel should ensure that parents are given the opportunity to comment on relevant information obtained from the Discipline Committee. Care must be taken to ensure that no party attending the hearing is present alone with the Review Panel in the absence of the others.
- vi. In exceptional cases the panel may adjourn an appeal to a later date. If there is an adjournment, it is essential that no part of the proceedings take place other than in the presence of all the panel members.

## **11 EVIDENCE AND WITNESSES**

- i. Where the Academy's case rests largely or solely on physical evidence, and where the facts are in dispute, then the physical evidence, if practicable, should be retained and be available to the panel, if they wish to see it. Where there are difficulties in retaining physical evidence, photographs or signed witness statements are acceptable as evidence.
- ii. The Review Panel cannot compel witnesses to attend and any witnesses must therefore appear before it voluntarily. The Review Panel may wish to call witnesses who saw the incident or behaviour which gave rise to the exclusion. They may also wish to call a teacher or teachers (other than the Head of School) who investigated the incident and interviewed students.
- iii. Where adult witnesses are unwilling to appear in person or are unavailable, the panel must rely on their written statements. In the case of witnesses who are students of Gosforth Academy, it will generally be appropriate for the panel to rely on their written statements. Students may, however appear as witnesses in person if they do so voluntarily and with their parents' consent. In such cases, that student's parents should be invited to the meeting in support of their child. All written witness statements must be attributed and signed, except in cases where the school has good reason to wish to protect the anonymity of students. In such cases the statement will not be attributed and some names may be blanked out. The general principle remains that excluded students are entitled to know the substance behind the reason for their exclusion. If any witnesses are going to appear in person, all parties need to know the details in advance of the day of the hearing.
- iv. The calling of character witnesses is at the discretion of the panel, but should be allowed unless there is good reason to refuse. It is for the panel to decide whether any witnesses, having given evidence, should remain for the remainder of the presentation of the case.

- v. If any of the parties intend to raise matters or produce documents at the hearing which are not covered by the statement of decision or the notice of appeal, these should be submitted to the clerk to the Review Panel in good time before the hearing. If substantial new issues are raised for the first time at the hearing, an adjournment, maybe necessary to allow all parties to consider the issues.
- vi. Parents may request a SEND expert attends the panel, whether or not the student has SEND.

## **12 RECORD OF THE PROCEEDINGS OF AN INDEPENDENT REVIEW**

- i. The clerk to a Review Panel should keep brief notes of the proceedings, the attendance, the voting and the decision in such forms as the Review Panel deems appropriate.

## **13 AFTER THE HEARING**

- i. The decision of the Review Panel is binding on all parties. The Review Panel will communicate its decision to all parties in writing without delay.

This written notification will include:

- The panel's decision and the reasons for it;
  - Where relevant, details of any financial readjustment/payment to be made to the Local Authority if the Discipline Committee subsequently decides not to offer to reinstate a student when directed to reconsider the exclusion; and
  - Any information that must be recorded on the student's educational record to reflect the decision.
- ii. If the Review Panel upholds the permanent exclusion, the clerk should immediately report this to Newcastle LA. The clerk should also advise the parent to contact their home LA about arrangements for their child's continued education. The Head of School should remove the student's name from the roll of Gosforth Academy the day after the conclusion of the exclusion review. Where the Review Panel recommends or directs reconsideration they should immediately inform the Head of School of their decision.
  - iii. Details of any exclusion may not be deleted from the student record, where an exclusion is a matter of fact. The Discipline Committee must, however comply with any parental request to append a Review Panel Judgement to the student's record.
- 14.** The Academy will ensure that there is a written record of the sanctions given under this policy and that patterns of exclusion are investigated regularly, with reports produced for the Trustees.

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| <b>Date approved:</b>       | September 2019<br>..... |
| <b>Signed:</b>              | .....                   |
| <b>Date to be reviewed:</b> | September 2020<br>..... |