




Beacon Academy Trust

A COMPELLING VISION FOR SUCCESS

EXTERNAL EXCLUSION POLICY AND PROCEDURE

Approving Body	Trust
Date of First Approval	09/11/2016
Date of Last Amendment	17/01/2017
To be Reviewed	Annually
Signed by Responsible Officer	 (Chair of the Trust)

I. INTRODUCTION – PURPOSE AND SCOPE

1. This policy should be read in conjunction with our Safeguarding, Behaviour and Equality Policies. It complies with the requirements of:
 - a. The Education Act 2002, as amended by the Education Act 2011; and
 - b. The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012; and
 - c. The Education and Inspections Act 2006; and
 - d. The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007.
2. This policy is crucial to the efficient management of the Beacon Academy Trust [the 'Trust']. It covers or promotes:
 - a. An improved understanding of the Trust's code of conduct; and
 - b. The involvement of governors and external agencies; and
 - c. Positive behaviour management.
3. 'Exclusion' means any amount of time – fixed or permanent – during which a pupil is required to be removed from Trust premises.
4. Exclusion is used as a sanction for violations of the Trust's Behaviour Policy. See 'Appendix A – National Standard List of Reasons for Exclusion'.
5. This policy and the statutory guidance on exclusions does not apply to internal exclusions, because they are not classified as formal/legal exclusions (they do not result in the removal of students from school premises. Please see the BMAT Policy on Internal Exclusions (available on the school website).
6. The Trust is committed to equality, safeguarding and promoting the welfare of children and young people:
 - a. When exclusion is necessary, the Trust will strive to maintain a cooperative relationship with and between all involved parties.
 - b. Where the Trust has concerns about a pupil's behaviour it will try to identify whether there are any causal factors and intervene early in order to reduce the need for subsequent exclusion. The Trust may consider a multi-agency assessment that goes beyond educational needs.
 - c. The Trust will tailor a strategy for reintegrating pupils that return to school following exclusion. This may include Pastoral Support Programmes.
 - d. Exclusions may lead to the review of the Trust's Behaviour Policy.

II. THE LAWFULNESS OF DECISIONS TO EXCLUDE

7. Pupils may only be excluded by a School Principal. When deciding to exclude a pupil, the School Principal must:
 - a. Take account of their legal duty of care; and
 - b. Provide pupils an opportunity to present their case, where appropriate; and
 - c. Apply the civil standard of proof (on the balance of probabilities, it is more likely than not that a fact is true) rather than the criminal standard (beyond reasonable doubt).
8. Any exclusion decision must be rational, reasonable, fair and proportionate and in accordance with the relevant legislation and legal duties of the Trust, namely:
 - a. The European Convention on Human Rights [the 'ECHR']; and
 - b. The Equality Act 2010 ['EA'], which prohibits the Trust from discriminating, harassing or victimising pupils on the grounds of a protected characteristic. The Trust **must** also have due regard to the need to eliminate conduct prohibited by the EA.
 - c. When administering the exclusion process, School Principals and the Governing Body **must** take account of their statutory duties in relation to special educational needs and disabilities ['SEND'].
9. Pupils may be excluded permanently or for one or more fixed periods, up to a maximum of 45 school days per academic year:
 - a. Fixed period exclusions do not have to be continuous.
 - b. In exceptional cases, fixed period exclusions may be converted into permanent exclusions.
10. Permanent exclusions will only be enforced if:
 - a. There is an immediate risk to the safety of the pupil concerned or other members of the Trust;
 - b. There are serious and/or persistent breaches of the Trust's Behaviour Policy;
 - c. A range of alternative strategies have been attempted unsuccessfully;
 - d. Allowing the pupil to remain on-site would seriously harm the education or welfare of others.
11. Unofficial exclusions (e.g. sending pupils home to cool off) are unlawful, regardless of parental consent.
12. Poor behaviour off-site may lead to exclusion:

- a. Behaviour off-site but on Trust business (e.g. trips) will be dealt with as though it took place on-site.
 - b. Behaviour off-site and not on Trust business may result in exclusion if there is a clear link between that behaviour and maintaining discipline among the student body as a whole, or if there are likely to be repercussions on-site.
13. It is unlawful to exclude or increase the length of exclusion for non-disciplinary reasons (e.g. additional needs, academic attainment and the actions of relatives). However, students may be excluded on medical grounds if they are too ill to participate in school activities; the condition creates an unsafe or unhealthy environment for others; or when the illness or injury requires a level of care or observation that cannot reasonably be managed on-site (see 'Medicine Policy').

III. PROCEDURE FOLLOWING A DECISION TO EXCLUDE

14. Any exclusion, no matter how short, must be recorded in writing and on pupils' personal files.
15. Whenever a School Principal excludes a pupil, the parents must be **notified immediately** (ideally by telephone), followed by a **letter within by the end of the first day of the exclusion**. The letter should specify:
- a. The reasons for exclusion; and
 - b. The period of exclusion, the fact that an exclusion is permanent or the fact that a fixed term exclusion has been made permanent; and
 - c. That for the first five school days of an exclusion, or until the start date of alternative provision where this is earlier, they must ensure that their child is not present in a public place during school hours, without justification.
 - d. Their right to make representations to the Governing Body and how any representations should be made; and
 - e. Their right to attend and be accompanied at meetings of the Governing Body, where there is a legal requirement for it to meet to consider the exclusion (as per paras.28 and 33).
16. For the first five school days of exclusion, parents must ensure that their child is not present in a public place during school hours, without reasonable justification. Failure to comply may result in prosecution or a fixed penalty.

17. Parents have a right to see/receive a copy of their child's school record, following a request to the School Principal.

18. Alternative Provision:

- a. The Trust will take reasonable steps to set work for pupils during the first five school days of exclusion.
- b. Alternative provision **must** be arranged from the sixth school day. For fixed period exclusions of more than five days, this will be by the Governing Body. For permanent exclusions, this will be by the Local Authority ['LA'].
- c. The dates, times and location of any alternative provision should be communicated by the end of the afternoon session of the first day of exclusion. Alternatively, it **must** be provided no later than **48 hours** before the provision is due to start.
- d. The only exception is where alternative provision is set before the sixth day of exclusion, in which case the information can be provided with less than **48 hours'** notice, with parents' consent.

19. Notifying the Governing Body and LA:

- a. Without delay, school principals **must** notify the Governing Body and LA of permanent exclusions, exclusions which would result in a pupil being excluded for more than five days in one term and exclusions which would result in a pupil missing a public exam.
- b. For all other exclusions, school principals **must** notify the LA and Governing Body once per term.
- c. Notifications **must** include the reasons for and duration of the exclusion.
- d. If a permanently excluded pupil lives outside the LA in which the Trust is located, then the School Principal **must** also advise the pupil's home authority.

20. If an exclusion results in a pupil missing a public exam, then the Governing Body **must** take reasonable steps to meet before the exam. If this is not practical, then the Chair of Governors may consider a pupil's reinstatement independently. In the alternative, the Governing Body **must** convene a meeting to consider reinstatement within **15 days** of receiving notice of the exclusion.

IV. PROCEDURE FOR FIXED TERM EXCLUSIONS OF FEWER THAN FIVE DAYS

21. Parents will be informed immediately of the reasons for and duration of their child's exclusion, followed by a letter by the end of the first school day of the exclusion.
22. The exclusion will be recorded in writing and on the student's file.
23. Where practicable, work for the exclusion will be given to the pupil before s/he goes off-site. Alternatively, it will be attached to the letter notifying parents of the exclusion.
24. For the duration of the exclusion, parents **must** ensure that their child is not seen in public during the school day without reasonable justification.
25. The Governing Body has the discretion to arrange a meeting to discuss the exclusion if parents request one. It cannot overturn the decision to exclude unless it results in a pupil being excluded for more than five school days in one term.
26. If the exclusion will result in a pupil being excluded for 6-15 days in one term, then parents may request that the Governing Body arrange a meeting to review the decision to exclude. The Governors will only hold a meeting if one is requested, but they do have the power to overturn such exclusions.
27. Requests should be made to Mr Ebrahim Vawda, Clerk to the Trust (evawda@beaconacademytrust.co.uk). Whether parents choose to make representations or not, they will be notified of the time, date and location of the meeting.

V. PROCEDURE FOR FIXED TERM EXCLUSIONS OF MORE THAN FIVE DAYS

28. Parents will be informed immediately of the reasons for and duration of their child's exclusion, followed by a letter by the end of the first school day of the exclusion.
29. Work for the first five days of exclusion will be given to the pupil before s/he goes off-site. Thereafter, the Governing Body is responsible.
30. Parents may request that the Governing Body arrange a meeting to review the decision to exclude. The Governors will only hold a meeting if one is requested and have the power to overturn the decision to exclude. Requests should be made to Mr Ebrahim Vawda (evawda@beaconacademytrust.co.uk).

31. If the exclusion will take the pupil's total days of exclusion to 16 or more in one term, then the Governing Body **must** meet to review the decision between the 6th and 15th school day of the exclusion.
32. Whether parents choose to make representations or not, they will be notified of the time, date and location of the meeting.
33. For the first five school days of exclusion, parents **must** ensure that their child is not present in a public place during school hours, without reasonable justification.

VI. PROCEDURE FOR PERMANENT EXCLUSIONS

34. Parents will be informed immediately of the reasons for and permanence of their child's exclusion, by telephone followed by a letter.
35. If the situation is serious enough to warrant the immediate removal of the pupil, then s/he will be excluded with immediate effect.
36. Work for the first five days of the exclusion will be given to the pupil before s/he goes off site. Thereafter, the LA is responsible.
37. The Governing Body and LA **must** be notified as soon as possible. Where applicable, the pupil's home authority **must** also be notified. The Governing Body **must** hold a meeting to consider the exclusion within **6-15 days** of being notified.
38. The Clerk to the Trust **must** invite the parents and LA to attend the meeting, at a time that is convenient to all parties. Parents may bring a friend, supporter or legal representative (at their own expense). They will inform the Clerk to the Trust in advance if this is the case.
39. A detailed report **must** be drawn up and circulated to all parties at least **48 hours** prior to the meeting.
40. The Governing Body will meet and either uphold the decision to permanently exclude or direct the pupil's reinstatement. A decision letter will be sent to all parties as soon as possible and no later than **five school days** after the meeting.
41. If a permanent exclusion is upheld, then the LA will arrange to assess the pupil's needs.
42. If the Governing Body decides to reinstate a pupil, then reinstatement **must** be within **five days** of the decision letter being sent.

VII. APPEALING A DECISION TO UPHOLD A PERMANENT EXCLUSION

43. Parents **must** submit an Appeal Form (Appendix B) to the Clerk to the Trust, Mr Ebrahim Vawda (evawda@beaconacademytrust.co.uk; Beacon Academy Trust, Woodford Bridge Road, Ilford, IG4 5LP):
- a. Within **15 school days** of written notice of the Governing Body's decision to uphold a permanent exclusion; or
 - b. Within **15 school days** of the final determination of a County Court or First-Tier Tribunal (SEND) discrimination claim.
44. Any appeal made outside these time-frames **must** be dismissed.
45. If parents apply within the legal time-frame, then the Trust **must** appoint an Independent Review Panel ['Panel'] to meet and review the Governing Body's decision.
46. The Trust **must** take reasonable steps to identify a date for the meeting that all parties can attend. However, the meeting **must** begin within **15 school days** of receiving the application for an appeal.
47. The Panel must constitute either three or five members, representing each of the categories below:
- a. A lay member to Chair the Panel who has not worked in any school in a paid capacity, disregarding any experience as a volunteer or school governor. The Trust should decide if legal qualifications are required.
 - b. School Governors, who have served as such for at least 12 consecutive months in the last five years, provided they have not been teachers or head teachers during this time.
 - c. School Principals or individuals who have been a School Principal within the last five years.
48. A person may not serve as a member of the Panel if they:
- a. Are a member or director of the Trust or Governing Body of the excluding school;
 - b. Are the School Principal of the excluding school or anyone who has held this position in the last five years;
 - c. Have, or at any time have had, any connection (to the Trust or excluding school; pupil and/or parents; or the incident concerned) which might reasonably be taken to raise doubts about their impartiality. An individual must not be taken to have such a connection just because they are principal of another school).

- d. Have a conflict of interest, which they **must** declare at the earliest opportunity.

49. The Trust **must** ensure that the Clerk and all Panel members have received training within two years prior to the review, which **must** cover:

- a. The requirements of the primary legislation, regulations and statutory guidance on exclusion.
- b. How the principles of judicial review relate to the Panel's decision making process (as per Para.7).
- c. The role of the Chair of the Panel and the Clerk to the Panel.
- d. The duty to act compatibly with the rights protected by the Human Rights Act 1998, as per s.6 of that Act.

50. Whether or not a school recognises that a pupil has SEND needs, all parents have the right to request the presence of an SEND expert at a meeting of the Panel.

51. The Panel does not have the power to direct the Governing Body to reinstate a permanently excluded pupil:

- a. Where the Panel decides that the Governing Body's decision is flawed on judicial review grounds, it may recommend or direct that the decision is reconsidered.
- b. Where the Panel recommends or directs reconsideration, the Governing Body **must** reconvene to do so within **10 school days** of being notified.
- c. If the Governing Body does not overturn its decision, then the Independent Review Panel will be expected to order that the Trust makes an additional payment of £4,000 towards the cost of alternative provision.

APPENDIX A – NATIONAL STANDARD LIST OF REASONS FOR EXCLUSION

PP - Physical assault against pupil

- Fighting
- Violent behaviour
- Wounding
- Obstruction and jostling

PA - Physical assault against adult

- Violent behaviour
- Wounding
- Obstruction and jostling

VP - Verbal abuse / threatening behaviour against pupil

- Threatened violence
- Aggressive behaviour
- Swearing
- Homophobic abuse and harassment
- Verbal intimidation
- Carrying an offensive weapon

VA - Verbal abuse / threatening behaviour against adult

- Threatened violence
- Aggressive behaviour
- Swearing
- Homophobic abuse and harassment
- Verbal intimidation
- Carrying an offensive weapon

BU - Bullying

- Verbal bullying
- Physical bullying
- Homophobic bullying
- Racist bullying

RA - Racist abuse

- Racist taunting and harassment
- Derogatory racist statements
- Swearing that can be attributed to racist characteristics
- Racist bullying
- Racist graffiti

SM - Sexual misconduct

- Sexual abuse
- Sexual assault
- Sexual harassment
- Lewd behaviour
- Sexual bullying
- Sexual graffiti

DA - Drug and alcohol related

- Possession of illegal drugs
- Inappropriate use of prescribed drugs

- Drug dealing
- Smoking
- Alcohol abuse
- Substance abuse

DM - Damage

- Damage to school or personal property
- Vandalism
- Arson
- Graffiti

TH - Theft

- Stealing school property
- Stealing personal property (pupil or adult)
- Stealing from local shops on a school outing
- Selling and dealing in stolen property

DB - Persistent disruptive behaviour:

- Challenging behaviour
- Disobedience
- Persistent violation of school rules

OT - Other

Includes incidents which are not covered by the categories above, but this category should be used sparingly.

APPENDIX B – APPEALING DECISION NOT TO REINSTATE

<u>CONTACT DETAILS</u>	
Complainant's Name	
Address	
Telephone Number	
Email Address	
Name of Pupil	
Relationship to Pupil	
<u>APPEAL INFORMATION</u>	
Date	
Date of the Governing Body's meeting to review the exclusion	
Did you receive a decision letter from the Governing Body within 5 school days of its meeting?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Summary of Appeal – Why do you think that the pupil(s) concerned should be reinstated? What aspects of the decision or decision making process do you disagree with and wish to appeal? Attach additional sheets if required.	

APPEAL INFORMATION

Declaration

I hereby confirm that the above statements are true to the best of my knowledge, information and belief.

Signature:

Date:

APPENDIX C – FLOWCHART OF THE EXCLUSION PROCESS

