



# ULT EXCLUSIONS POLICY<sup>1</sup>

## December 2009

### 1 Key Principles

- 1.1 ULT, the Local Governing Body (“LGB”) (including its Behaviour Committee) and the Principal must have regard to the DCSF guidance on exclusions<sup>2</sup> as it can be applied to academies. The ULT Policy has itself been written having regard to the DCSF current guidance on exclusions.
- 1.2 Except in relation to the role of the LGB, the ULT Exclusions Policy follows the DCSF guidance closely. Care should be taken to understand where the ULT policy differs from the DCSF guidance. Where this is the case, the ULT Exclusions Policy should be followed.
- 1.3 Each academy must publish annually the Academy’s Behaviour Policy which sets out clear and consistent expectations in respect of behaviour.
- 1.4 ULT recognises that exclusion is a serious matter and has the potential to affect the student’s life chances in a significant way. Decisions in respect of exclusion, therefore, must not be taken lightly, but only after careful consideration and in circumstances which are fair.
- 1.5 Care should be taken to ensure that students are only excluded after all the relevant factors have been considered and when the Principal is convinced that there is no alternative. The Principal must ensure
  - (a) that a thorough investigation has been carried out,
  - (b) that the evidence has been considered,
  - (c) that where appropriate statements have been taken from witnesses and
  - (d) that the student has had the opportunity to give his/her version of events.
- 1.6 The nature and period of exclusion should be proportionate having regard to the incident(s) and other circumstances leading to exclusion.
- 1.7 A student may be excluded for one or more fixed periods which, when aggregated, do not exceed a total of 45 school<sup>3</sup> days in any one academic year.
- 1.8 A student is likely to be excluded if
  - (a) allowing him/her to remain in the academy seriously harms the learning or welfare of another student or students in the school;

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<sup>1</sup> This Policy should be read in conjunction with the ULT Exclusions Guidance Note – December 2009

<sup>2</sup> The DCSF guidance is entitled “Improving Behaviour and Attendance: Guidance on Exclusion from Schools and Pupil Referral Units”, which is published on the DCSF website. The guidance may be subject to amendment. The Academy is required to have regard to the guidance as it stands at any given time.

<sup>3</sup> A school day is defined as a week day excluding Saturdays and Sundays during the school term.

- (b) allowing him/her to remain in the academy seriously harms the welfare of an adult or adults in the school;
  - (c) his or her behaviour seriously undermines the ethos of the academy;
  - (d) the student's behaviour is judged to be gross misconduct.
- 1.9 Exclusion may be considered either in response to a single significant action or as a consequence of a series of actions, whether related or not, which in themselves may be less significant but which taken as a whole demonstrate a pattern of behaviour which is considered to be unacceptable using the standards set out in paragraph 1.8 above.
- 1.10 Gross misconduct will normally result in permanent exclusion.
- 1.11 An academy has the right to make decisions about behaviour taking place on trips, outings, sporting fixtures, or travel/movement in the vicinity of the academy. Subject to the requirements of this policy, the Principal of an academy (or a member of staff authorised to do so) may exclude students even if the circumstances giving rise to exclusion occur when the student is out of school.
- 1.12 Each ULT academy must establish a sub committee ("the Behaviour Committee") of the LGB from which members will be drawn to consider specific Level 2 or Level 3 exclusions. The Principal may not be a member of the Behaviour Committee. Normally the members of the Behaviour Committee should be members of the LGB. However, the LGB may co-opt persons to the Behaviour Committee who are not members of the LGB if they would bring relevant skills or experience to the Committee.
- 1.13 Levels of Exclusions
- (a) Level 1 Exclusion: Fixed term exclusion (temporary exclusion) of fewer than 15 school days in any term
  - (b) Level 2 Exclusion: Fixed term exclusion (temporary exclusion) for a period of 15 school days or more in any term or for a series of fixed term periods which when aggregated are 15 school days or more in any one term.
  - (c) Level 3 Exclusion: Permanent Exclusion
- 1.14 Parents whose child has received a Level 3 or Level 2 Exclusion have the right to appeal to an Independent Appeals Panel as set out in Appendix 1.
- 1.15 Parents whose child has received a Level 1 Exclusion may ask the Behaviour Committee to undertake a review of the process. The request from parents should be made in writing and should set out the question(s) which they wish the Behaviour Committee to consider. The Behaviour Committee will consider the written submission and should normally respond in writing within 14 days. The Behaviour Committee may not require the reinstatement of the student nor may it require the record of exclusion be deleted.
- 1.16 If pupils are sent home in response to a breach of discipline, even for short periods of time, this is an exclusion. It must be formally recorded as an exclusion. Informal or unofficial exclusions are illegal regardless of whether they are done with the agreement of parents or carers.

- 1.17 The academy should arrange a reintegration interview with parents following a fixed term exclusion of any length but must, in any event, do so when the fixed term exclusion is six or more school days. In the case of a primary pupil the academy must arrange a reintegration interview following any fixed term exclusion.
- 1.18 In discharging their duties with respect to the management of exclusions, ULT, the Principal and the LGB will seek to follow the ULT Exclusions Policy unless there are exceptional circumstances where it is appropriate to depart from it. ULT, the Principal and the LGB must act in accordance with the explicit requirements in relation to the composition of the Independent Appeals Panel as stated in the Funding Agreement. (see Appendix 1 paragraph 2.1)

## **2 Roles and Responsibilities**

- 2.1 The ULT Board is responsible for creating and reviewing the ULT Exclusions Policy.
- 2.2 The LGB is responsible for the following appointments:
- (a) The Behaviour Committee
  - (b) The Independent Appeals Panels
  - (c) The Clerk to the Appeal Panels.
- 2.3 The responsibilities of the Behaviour Committee are
- (a) through its members to provide support and advice to the Principal when consulted on the making of decisions about each specific Level 2 and 3 exclusion; *and*
  - (b) More generally, to review and monitor behaviour, discipline and exclusions.
- 2.4 The Principal is responsible for:
- (a) The decision as to whether exclusion is appropriate and, if so, whether permanently or for a fixed period;
  - (b) Ensuring that the process through which he/she arrives at the decision to exclude is consistent with this policy;
  - (c) Ensuring that records are made and retained in accordance with this policy;
  - (d) Informing the Local Authority (“LA”) of any permanent exclusion;
  - (e) Providing for the full time education of pupils (off site or in a shared provision) from the 6th day of any fixed term exclusion of 6 days or longer;
  - (f) The management and re-integration of students who are re-admitted following exclusion including arranging a reintegration interview with parents;
  - (g) In consultation with the Behaviour Committee, making decisions relating to the admission and subsequent management of students excluded from other schools;
  - (h) Reporting matters relating to exclusions to the Behaviour Committee and through them to the LGB on a termly basis.
- 2.5 Parents are responsible for:
- (a) Ensuring their child is not in a public place in school hours during the first five days of a fixed term exclusion.

### 3 The Decision to Exclude

3.1 The Principal has the right to exclude a student either permanently or for a fixed period. In the case of a Level 1 Exclusion, the decision should be taken by the Principal but may, if necessary, be taken by the Vice Principal (or equivalent) specifically authorised to deputise for the Principal in making such decisions. If circumstances require the authorised Vice Principal to make the decision to exclude, the Vice Principal must inform the Principal at the earliest opportunity following the decision.

#### 3.2 Permanent Exclusion: Level 3 Exclusion

- (a) Before making a decision to impose a Level 3 Exclusion, the Principal must consult fully with at least 3 members of the Behaviour Committee in relation to the specific case. The decision itself lies with the Principal. Notes should be taken of discussions with the members of the Behaviour Committee.
- (b) The Principal must also consult with others who have knowledge of the circumstances and who might be expected to provide information and advice to the Principal prior to making his/her decision.
- (c) The Principal must invite the parents to a meeting to discuss the position and to allow them to make representation before coming to a final decision. The Principal must tell the parents that he/she is minded to permanently exclude the student in advance of the meeting. If parents refuse to attend or are unable to attend having been given a reasonable opportunity to do so or if, in exceptional circumstances, such a meeting is in the Principal's judgement not possible, the Principal must alert the Chair of the LGB to this situation.
- (d) In addition, the Principal must consult fully with the Deputy Chief Executive ULT (or in her absence the Deputy Chief Executive UCST) and the Chair of the LGB (or his/her nominated Deputy as delegated) before the decision is implemented.
- (e) A brief written report must be sent to the Deputy Chief Executive ULT, the Behaviour Committee and the Chair of the LGB as soon as possible following the decision. This should be sent within 5 school days of the decision unless that is not practicable for any reason.
- (f) A record of each of the above consultations and the written report to the Deputy Chief Executive ULT and the Chair of the LGB must be retained. This record may be required as evidence during any appeals hearing.

#### 3.3 Fixed term exclusion (temporary exclusion) for 15 school days or more in any term: Level 2 Exclusion

- (a) This section applies to fixed term exclusions of 15 days or more in any one term, whether or not that exclusion is continuous or is cumulative over a number of separate exclusions during the term.

- (b) Before making a decision to impose a Level 2 Exclusion, the Principal must consult fully with at least 3 members of the Behaviour Committee in relation to the specific case. The decision itself lies with the Principal. Notes should be taken of discussions with the members of the Behaviour Committee.
- (c) The Principal must also consult with others who have knowledge of the circumstances and who might be expected to provide information and advice to the Principal prior to making his/her decision.
- (d) The Principal should seek to meet personally with the parents of the student before coming to a final decision. The Principal must tell the parents that he/she is minded to exclude the student for a fixed period Level 2 Exclusion. In exceptional circumstances, such a meeting may not be possible. If such circumstances arise, the Principal should alert the Chair of the LGB to this situation.
- (e) In addition, the Principal must consult fully with the Chair of the LGB (or his/her nominated Deputy as delegated) before the decision is implemented.
- (f) A brief written report must be sent to the Behaviour Committee and to the Chair of the LGB as soon as possible following the decision. This should be sent within 5 school days of the decision unless that is not practicable for any reason.
- (g) A full record of each of the above consultations and the written report to the Chair of the LGB must be retained. This record may be required as evidence during any appeals hearing.

#### 3.4 Fixed term exclusion of fewer than 15 school days in any term: Level 1 Exclusion

- (a) The Principal (or a designated senior member of staff who has been authorised to make such decisions) should seek to meet personally with the parents of the student to tell them of the decision to impose a Level 1 Exclusion. This meeting may not be possible to arrange before the exclusion starts but should take place as soon as possible at the start of the exclusion period.
- (b) The Principal must inform the Chair of the LGB (or his/her nominated Deputy if the Chair is unavailable) of the Level 1 Exclusion.
- (c) A brief written report which may be a copy of the letter of exclusion must be sent to the Behaviour Committee and to the Chair of the LGB as soon as possible following the decision. This should normally be within 5 school days of the decision.
- (d) A record of each of the above consultations and the written report to the Chair of the LGB must be retained. This record may be required as evidence during any appeals hearing.

3.5 Following any exclusion, the Principal must write to the parents with the statement of decision putting the decision to exclude in writing stating the date the exclusion takes effect.

- (a) The letter must also explain

- (i) the circumstances leading up to the decision to exclude
  - (ii) why the Principal decided to exclude the student,
  - (iii) if relevant, what steps were taken to try and avoid the exclusion;
  - (iv) details of any relevant previous warnings, fixed period exclusions or other disciplinary measures taken before the present incident;
  - (v) the arrangements for enabling the student to continue his/her education, including setting and marking the student's work;
  - (vi) the parents' right to see and have a copy of their child's record;
  - (vii) the parents' responsibilities to ensure their child is not in a public place in school hours during the first five days of an exclusion.
- (b) If the exclusion is for a fixed period, the letter will also state
- (i) the length of the exclusion and the date and time the student should return to the academy;
  - (ii) the arrangements for a parent interview at the end of the exclusion to discuss the process of reintegration.
- (c) For Level 2 and Level 3 Exclusions, the letter will also state the parents' right to appeal to the Independent Appeals Panel and the appropriate mechanism for that to happen (see Appendix 1).
- (d) For Level 1 Exclusions, the letter will also state that if parents are concerned about the way in which the exclusion was managed, they may write to the Behaviour Committee to ask it to review the process.

#### **4 Notes to support this policy including its appendices**

##### **4.1 "Parents"**

- (a) Wherever the policy refers to "parents", the policy should be taken to mean the main adult(s) who has responsibility for the care of the child and should be taken to include one or more biological, adoptive, step, foster parent.
- (b) For some children, the most appropriate adult with care responsibilities may be a grandparent or other near relative with whom the child permanently resides.
- (c) In the case of Looked After Children (children in social care), the adult with care responsibilities may be the child's social worker.
- (d) In situations in which parents disagree themselves as to their action in response to exclusion decisions or where there is dispute as to who is responsible for the care of the child, the academy will endeavour to respond in what, in its view, is in the best interests of the child taking into account any legal decisions or court orders relating to the custody of the child of which it has been made aware.

##### **4.2 "Principal"**

- (a) The term "Principal" should be taken to include Acting Principal.

## **Appendix 1: Independent Appeals Panel**

Within the ULT Exclusions Policy, exclusions fall into three categories: Level 1, Level 2 and Level 3 (see Paragraph 1.13 the Policy)

Parents (see Notes 4.1 of the Policy) whose child has received a Level 2 or Level 3 Exclusion have the right to appeal to the Independent Appeals Panel (“the Panel”).

### **1 Notice of Appeal**

- 1.1 The statement of decision (see paragraph 3.5 of the Policy) must inform the parents of their right to appeal against the decision to exclude and
  - (a) give the name and contact details for the Clerk to the Panel
  - (b) explain that the parents’ notice of appeal must be in writing and must set out the grounds of appeal
  - (c) specify the final date and time for lodging an appeal, which must be at least 14 days from the date on which the notice is sent
  - (d) state that unless there are exceptional circumstances no appeal will be accepted if it is made after the final date for lodging an appeal.
- 1.2 The Panel must meet no later than the 15<sup>th</sup> school day after the notice appeal was received.

### **2 Membership of the Panel and the Hearing**

- 2.1 The composition of the Panel is set out in the Funding Agreement.
- 2.2 The Panel must consist of three members plus a Clerk appointed by the LGB. The three members of the Panel must be as follows:
  - (a) The chairman must be someone who has not worked in a school in any paid capacity, although they may be (or have been) a school governor or work (or have worked) in a school as a volunteer. The chair may be someone with a legal qualification.
  - (b) One must be, or have been, a governor of a maintained school or an academy, provided they have served in this capacity for a least 12 consecutive months in the last 6 years (but they must not be, or have been in the last five years, a teacher or head teacher).
  - (c) One must be, or have been within the last 5 years, a head teacher of a maintained school or academy.
- 2.3 The members of the Panel must not be a member or Director of ULT or UCST, member of the academy’s LGB, employee of ULT or UCST or person who has had any connection with the academy (other than in connection with an Independent Appeals Panel) or with the excluded student or with the incident leading to the exclusion. Members of other LGB’s within ULT and UCST are eligible to be members of the Panel provided they have not had any connection with the academy

(other than in connection with an Independent Appeals Panel) or with the excluded student or with the incident leading to the exclusion.

- 2.4 Those entitled to attend a hearing and present their case verbally and/or in writing are:
  - (a) The parent(s), who may be represented by a legal or other representative;
  - (b) The Principal, who may be represented by a legal or other representative.
  - (c) A member of the Behaviour Committee
- 2.5 The student, if so requested, will be allowed to attend the hearing and speak on his/her own behalf unless the Panel determines there is good reason to refuse.
- 2.6 The Clerk should establish who will be attending the Hearing and the part they will play in the process. This information should be circulated to all involved as soon as possible after the Notice of Appeal.
- 2.7 If the number of members drops below three during the appeal, the Chairman must use his/her discretion to decide whether the appeal can continue. Once an appeal has begun no member may be substituted by a new member for any reason.

### **3 Role of the Clerk to the Panel**

- 3.1 The Clerk is appointed by the LGB and must be independent of ULT, the academy and the Panel. His/her role is to administer the appeals process and to be an independent source of legal and procedural advice for all parties to the appeal. ULT will use its best endeavours to ensure that the Clerk has experience in the conduct of appeal hearings.
- 3.2 When the Panel withdraws or invites the parties to do so the Clerk may remain with the Panel but only for the purpose of offering advice on procedure or law and recording decisions and reasons.

### **4 Procedure at the Hearing**

- 4.1 The Panel should try to ensure that the parties are put at ease with a view to their presenting their cases effectively. Where practicable, the venue should be in a neutral place.
- 4.2 The Chair or Clerk should welcome the parties and introduce those present, pointing out that the Panel is independent of the academy, its LGB and ULT and that its decision is binding on the parties.
- 4.3 The intended order of hearing should be notified in advance to the parties. If there is good reason to do so, it may be changed as long as to change it would be fair. The Chair should explain that the parties will be able to state their case and that there will be an opportunity for questioning following the statement of each case.
- 4.4 The Chair should order proceedings and lead the Panel in establishing the relevant facts. If the parents appear to be having difficulty in presenting their case the Chair should assist them to ensure that their case is established and that factual matters not in dispute are clearly identified.

- 4.5 Sufficient time will be allowed for each party to put its case. At the end of each party's statement and following questions by the other parties, the Panel members may also ask questions in order to clarify an issue or to elicit more information.
- 4.6 If the Panel wishes to vary the notified procedure it should only do so after hearing the views of all the parties present.
- 4.7 At any stage during the proceedings, any party may ask for a brief adjournment. In exceptional cases the Panel may adjourn the 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.
- 4.8 Care must be taken to ensure that no party attending the hearing is present alone with the Panel in the absence of other parties.

## **5 Evidence and Witnesses**

- 5.1 So far as is reasonably practicable the Clerk should make available all written evidence to all parties and the Panel in advance of the hearing.
- 5.2 If additional matters or documents are raised which were not covered by the statement of decision (see paragraph 3.5) or the notice of appeal (see Appendix 1 paragraph 1) any parties raising them should do their best to submit them to the Clerk in good time before the hearing. If substantial new issues or information are raised for the first time at the hearing, the Panel should consider allowing an adjournment if that is appropriate.
- 5.3 The Principal and the parents have the right to make written representations to the Panel and to appear and make oral representations.
- 5.4 The Panel may hear evidence from others directly or indirectly involved or who were witnesses to the incident(s), including the student. The Panel cannot compel witnesses to attend and any witnesses must therefore appear before it voluntarily. All parties should be given details of any witnesses in advance of the day of the hearing.
- 5.5 The Panel may call a teacher(s) who investigated the incident and interviewed students. Teachers may be accompanied if they so request. Where adult witnesses are unwilling to appear or are unavailable the Panel may rely on their written statements, copies of which should have been circulated to all parties by the Clerk before the hearing.
- 5.6 In the case of witnesses who are students, 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.
- 5.7 All written witness statements should be attributed and signed except where there is good reason to wish to protect the anonymity of students in which case relevant names may be blanked out. The general principle remains that someone accused of something should know the substance and the source of the accusation.
- 5.8 Where relevant physical evidence, if practicable, should be retained and be available to the Panel if they wish to see it. Alternatively, photographs or signed witness statements are acceptable as evidence.

- 5.9 The calling of character witnesses is at the discretion of the Panel but should be allowed unless there is good reason to refuse.

## **6 Coming to the Decision**

- 6.1 The remit of the Panel is to consider whether the student should be re-instated or, in the case of a Level 2 Exclusions, whether the nature and length of the exclusion is proportionate. The Panel may also make recommendations in relation to the way in which the academy has managed the process.
- 6.2 The Panel must not direct reinstatement of students 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.
- 6.3 The Panel, when directing re-instatement, may specify a future date rather than an immediate return to allow for support arrangements to be put in place but the date of re-instatement should be reasonable in all the circumstances.
- 6.4 There may also be exceptional cases where the panel consider that the permanent exclusion should not have taken place, but that reinstatement is not a practical way forward in the best interests of all concerned. This could include situations where there has been an irretrievable breakdown in relations between pupil and teachers; or between the pupil and other pupils involved in the exclusion or appeal process. Balancing the interests of the pupil and the whole school community may suggest that reinstatement would not be the most sensible outcome in such cases.
- 6.5 In considering an appeal the Panel will decide whether the student actually did what he/she is accused of doing. If more than one incident of misconduct is alleged the Panel will decide on each incident. If satisfied on the balance of probabilities that the student did what was alleged to have been done then the Panel will decide whether, considering all relevant factors, the exclusion was a reasonable response to that conduct. Relevant factors must include:
- (a) the broader interests of other students and staff in the academy as well as those of the excluded student;
  - (b) the academy's published behaviour and discipline policy;
  - (c) where other students were involved in the same incident and were also disciplined the fairness of the exclusion in relation to the sanctions imposed on the other students involved.

## **7 Record of the Proceedings of the Panel**

- 7.1 The Clerk must keep all the documentation relation to the hearing including brief notes of the proceedings, the attendance, the voting and the decision in such forms as the Panel deems appropriate.
- 7.2 The Clerk should also retain any notes taken during appeals to help the Panel's decision-making process.
- 7.3 Records should be archived for 10 years.

## 8 **After the Hearing**

- 8.1 The decision of the Panel is binding on all parties. The Clerk to the Panel should normally communicate its decision to all parties by the end of the fifth working day after the appeal hearing. The letter setting out the decision of the Panel must include the reasons for reaching that decision.
- 8.2 If the Panel upholds a Level 3 Exclusion the Clerk must immediately report this to the Principal who must advise the parents to contact the LA about arrangements for the child's continued education. The Principal should remove the student's name from the academy's roll the day after the conclusion of the exclusion appeal. Where the Panel direct re-instatement the Clerk to the Panel should immediately inform the Principal of its decision and specify the date on which the student must be readmitted.
- 8.3 Unless the Panel direct otherwise, the student record will be amended to include:
  - (a) Details of the events leading to the decision to exclude
  - (b) The statement of the decision
  - (c) The notice of appeal
  - (d) The written statement of the Panel's decision