

EXCLUSION POLICY

AUTUMN 2016

1. **Scope and publication:** The policy sets out guidelines and circumstances under which a pupil may be excluded on a fixed term or permanent basis from La Fontaine Academy and applies to all pupils at the School, including those who may be below or above compulsory school age. The Policy is available on the School website and can be made available in large print or other accessible format if required.
2. **Guidance and legislation:** This policy is drafted to be compliant with the Statutory Guidance '[Exclusion from maintained schools, academies and pupil referral units in England: A guide for those with legal responsibilities in relation to exclusion](#)' (DfE, September 2012). This Policy contains a summary of this guidance and is not intended to provide a full account of all of the guidance content. This policy also takes account of the School's public sector equality duty set out in section 149 of the Equality Act 2010.
3. **Pupil participation:** Excluded pupils will be enabled and encouraged to participate at all stages of the exclusion process, taking into account their age and understanding.
4. **Aims**
The aims of this policy are:
 - to support the School's behavioural policy;
 - to assist the School in complying with legislation and guidance;
 - to promote procedural fairness and natural justice in relation to exclusions; and
 - to encourage and support co-operation between the School and parents/carers/carers when a pupil is excluded from the School, either temporarily for a fixed term or permanently.
5. **The decision to exclude**

A pupil may be excluded for one or more fixed periods or permanently. Only the Headteacher can exclude a pupil and this must be on disciplinary grounds.

5.1. The main categories of misconduct which may result in exclusion are:

- Persistent refusal to follow adult instructions
 - Persistent disruption to learning
 - Severe physical violence, intimidation, racism or persistent bullying
 - Vandalism
 - Other serious misconduct
6. **The behaviour of pupils outside school:** can be considered as grounds for exclusion. This will be a matter of judgement for the Headteacher in accordance with the School's Behaviour Policy.

7. **Standard of proof:** When establishing the facts in relation to an exclusion decision the Headteacher will 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'.
8. **Behaviour related to a protected characteristic:** The decision to exclude a pupil will be lawful, reasonable, fair and proportionate. We will not discriminate against pupils on the basis of protected characteristics, such as disability or race. The School will make reasonable adjustments for managing behaviour which is related to a pupil's disability. Where exclusion needs to be considered, the School will ensure that a disabled pupil is able to present his or her case fully where the disability might hinder this.
9. **Process:** The decision to exclude a pupil is not taken lightly and the Headteacher will:
 - ensure that a thorough investigation has been carried out;
 - consider all the evidence available to support the allegations;
 - allow and encourage the pupil to give their version of events;
 - keep a written record of the actions taken including statements of witnesses. Any exclusion of a pupil, even for short periods of time, will be formally recorded; and
 - be confident that the procedures detailed in this policy and the Statutory Guidance have been carried out.
10. **Notification to parents/carers:** If the Headteacher decides to exclude a pupil he/she will, without delay, notify parents/carers of the period of the exclusion and the reasons for it. The Headteacher will also, without delay, provide parents/carers with the following information in writing:
 - the reasons for the exclusion;
 - the period of a fixed period exclusion or, for a permanent exclusion, the fact that it is permanent;
 - parents/carers' right to make representations about the exclusion to the Governing Body and how the pupil may be involved in this;
 - how any representations should be made;
 - that where there is a legal requirement for the Governing Body to consider the exclusion, that parents/carers have a right to attend a meeting, be represented at this meeting (at their own expense) and to bring a friend;
 - where an excluded pupil is of compulsory school age that for the first five school days of an exclusion (or until the start date of any alternative provision where this is earlier) parents/carers are legally required to ensure that their child is not present in a public place during school hours without reasonable justification;
 - other required information under the Statutory Guidance.
11. **Notification to Local Authorities and Governing Body:** The Headteacher will inform the Governing Body and the relevant local authorities of all permanent exclusions; exclusions which would result in the pupil being excluded for more than five school days in any one term; and exclusions which would result in the pupil missing a public examination or national curriculum test, within one school day of the decision and will provide detailed exclusion reports. For all other exclusions the Headteacher will notify the local authority and Governing Body once a term.

12. **Sent home:** Once the decision has been made to exclude, a pupil will only be sent home once contact has been made with parents/carers and where it is clear that the pupil will be returning to a place of safety. Work will be provided and either sent with the pupil or arrangements made for collection.
13. **Public places:** During the first five days of any exclusion, the parents/carers of an excluded pupil must ensure that they are not present in a public place during normal school hours without reasonable justification, whether with or without a parent / carer. Failure to comply with this is an offence for which a fixed penalty notice can be issued.
14. **Fixed-term exclusions:** A pupil may be excluded for one or more fixed periods, up to a maximum of 45 school days in a single academic year. A decision to exclude a pupil for a fixed-term may be taken in response to breaches of the School's Behaviour Policy. A pupil may be subject to a fixed term exclusion and be required to stay at home whilst a complaint is being investigated or while an investigation is adjourned.
- 14.1. **Lunchtime exclusions:** Pupils whose behaviour at lunchtime is disruptive may be excluded from the school premises for the duration of the lunchtime period. In such cases the requirements in relation to exclusion, such as the Headteacher's duty to notify parents/carers, still apply.
- 14.2. **Set work:** During a fixed term exclusion of 5 or fewer days, work will be set by the school for the pupil to complete at home. This work should be returned completed at the end of the exclusion for marking. Parents/carers should note that there may be a delay in providing work whilst teaching staff are given the opportunity to determine what work should be set. Alternatively, the pupil may be placed under a segregated regime on school premises.
- 14.3. **Educational provision:** For a fixed period exclusion of more than five school days, the Governing Body will arrange suitable full-time education for any pupil of compulsory school age. This provision will begin no later than the sixth day of the exclusion.
- 14.4. **Reintegration:** Before the end of any fixed-term exclusion, parents/carers will be invited to attend a reintegration meeting at the School with their son/daughter. The purpose of the meeting is to ensure that the pupil understands the reason for the exclusion and is committed to preventing the behaviour that led to the exclusion from being repeated. The school will consider all further support needed to help the pupil, including referral to external agencies if appropriate. The pupil will also spend a period of time on report to support their reintegration.
15. **Permanent exclusion:** Permanent exclusion is an extremely serious step to take and has a significant impact on the ability of a pupil to access education in the future. It is only used where it is unavoidable and where every possible appropriate alternative has been considered. Permanent exclusion will only be used as a last resort, in response to a serious breach, or

persistent breaches, of the School's Behaviour Policy; and where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

The Headteacher will meet with the parents/carers and pupil before reaching a decision to permanently exclude a pupil. Under normal circumstances, a pupil will be excluded for a fixed-term before the decision is made to permanently exclude.

Educational provision: for permanent exclusions, the local authority will arrange suitable full-time education for the pupil to begin no later than the sixth day of the exclusion.

16. Governing Body Consideration

The School's local Governing Body has responsibility for supporting the Headteacher in making decisions and reviewing them in relation to exclusions. In some circumstances the Governing Body will automatically consider the Headteacher's decision to exclude a pupil, and in other circumstances, a parent may request the Governing Body to consider the Headteacher's decision to exclude.

17. **Automatic considerations:** the Governing Body will automatically consider the reinstatement of an excluded pupil, within 15 school days of receiving notice of the exclusion, if:

- the exclusion is permanent;
- it is a fixed period exclusion which would bring the pupil's total number of school days of exclusion to more than 15 in a term; or
- it would result in a pupil missing a public examination or national curriculum test (in which case the Governing Body will take reasonable steps to meet before the date of the examination and if this is not practical, the chair of governors may consider pupil's reinstatement independently).

18. **Requests by parents/carers:** Parents/carers may, without delay, request in writing that the Governing Body consider an exclusion when the exclusion takes the pupil's total days of exclusion above five for the term. If requested to do so by the parents/carers, the Governing Body will consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion. In the case of a fixed period exclusion which does not bring the pupil's total number of days of exclusion to more than five in a term, the Governing Body must consider any representations made by parents/carers, but it cannot direct reinstatement and is not required to arrange a meeting with parents/carers.

19. **Procedure:** In considering an exclusion, the role of the Governing Body is to arrange and hold a meeting in accordance with the Statutory Guidance with at least three governors, the Headteacher and the parents/carers and then:

- uphold the exclusion; or
- direct the pupil's reinstatement immediately or on a particular date.

20. In reaching a decision on whether or not to reinstate a pupil, the Governing Body will consider whether the decision to exclude the pupil was lawful, reasonable and procedurally fair, taking

account of the Headteacher's legal duties. When establishing the facts the Governing Body will apply the civil standard of proof, as defined above.

21. **Notification:** In accordance with the Statutory Guidance, the Governing Body will notify the parents/carers, the Headteacher and relevant local authorities, in writing without delay and no later than three school days after the meeting:

- their decision;
- the reasons for their decision;
- where relevant, details of the Independent Review procedures and the date by which an application for a review must be made (15 school days from the date of the Governing Body decision letter); and
- other information required within the Statutory Guidance, including the right to request a SEN expert at the Independent Review.

22. Independent Review Panel

Request for an Independent Review: Parents/carers may request an independent review of the Governing Body's decision to uphold the decision to permanently exclude a pupil. The request for a review must be made to the Clerk to the Governing Body, setting out the grounds on which it is made in writing and within 15 school days of the date of the Governing Body's decision letter or within 15 school days of the final determination of a claim of discrimination under the Equality Act 2010 in relation to the exclusion. Any application after this time frame will be rejected.

23. **Responsibility for setting up the Independent Review:** La Fontaine Academy has delegated responsibility for setting up the independent review to the Local Governing Body of La Fontaine Academy .

24. **Timing:** A Review Panel will meet to review the decision to exclude within 15 school days after the day on which the request for the review was received. Parents/carers will be informed of the date and location of the hearing. The hearing may be adjourned if the panel consider that it would not be appropriate to proceed, for example where additional information is required.

25. **Composition of the Review Panel:** The Review Panel will consist of three or five appropriately trained independent members and will be appointed in accordance with the Statutory Guidance. A clerk to the panel will also be appointed who can provide independent advice to all of the parties and will circulate all written evidence to the parties at least five school days before the hearing. Parents/carers should contact the clerk if they have any questions about this procedure.

26. **Role of the panel:** The Review Panel will rehear all of the facts of the case, including any fresh evidence. In reviewing the decision the panel will consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and people working at the school. The panel will apply the civil standard of proof, as defined above. The Review Panel does not have the power to direct a Governing Body to reinstate an excluded pupil. The Review Panel may:

- uphold the decision to permanently exclude;
- quash the decision and direct that the Governing Body considers the exclusion again; or

- recommend that the Governing Body reconsider its decision.

27. **A direction to reconsider:** will be limited to circumstances where a panel decides that the school has acted illegally, irrationally or where there are significant flaws in procedure.
28. **Reconsideration:** Where the panel directs or recommends that the Governing Body reconsiders their decision, the Governing Body will reconvene to do so within 10 school days of being given notice of the panel's decision. If the Governing Body does not subsequently offer to reinstate a pupil, an adjustment may be made to the schools budget in the sum of £4,000. The school, as an Academy, would be required to make an equivalent payment directly to the local authority. This payment will be in addition to any funding that would normally follow an excluded pupil.
29. **Decision and notification:** The panel's decision is binding on the pupil, the parents/carers, the Governing Body, the Headteacher, the Local Authority and the Academy Trust. All parties will be informed in writing, without delay and by the end of the second working day after the hearing of:
- the decision;
 - the reasons for it; and
 - any information which must be recorded on the pupil's educational record to reflect the decision

If the exclusion is upheld, the clerk will immediately inform the relevant local authorities.

30. **Complaint:** If parents/carers have a complaint about maladministration by the Review Panel, they should contact the Education Funding Agency (EFA).