

# Fairfax Multi-Academy Trust

## Exclusions Policy

<b>Document Owner:</b>	Karen Cornell, Trust Pastoral Lead
<b>Ratified by:</b>	Education Committee
<b>Date Ratified:</b>	October 2024
<b>Review Date:</b>	September 2025

## Contents

1. Aims.....	2
2. Legislation and statutory guidance.....	3
3. Definitions .....	4
4. Roles and responsibilities.....	4
5. Considering the reinstatement of a student.....	10
6. Independent review .....	12
7. Academy registers.....	14
8. Returning from a suspension.....	15
9. Monitoring arrangements.....	16
10. Links with other policies.....	16
11. FMAT Governor panel training.....	16
Appendix 1: Half termly update for Academy Associates (this document is provided electronically – this is just an example) .....	18

### 1. Aims

Fairfax Multi-Academy Trust (FMAT) is committed to following all statutory exclusions procedures to ensure that every child receives an education in a safe and caring environment.

All FMAT Academies strive to:

- Ensure that the exclusions process is applied fairly and consistently.



- Help all governors, staff, parents and students understand the exclusions process.
- Ensure that students in each Academy are safe and happy.
- Prevent students from becoming NEET (Not in Education, Employment or Training).
- Ensure all suspensions and permanent exclusions are carried out lawfully.

### **1.1. Off-rolling**

Our Academies are aware that off-rolling is unlawful. Ofsted defines off-rolling as:

“The practice of removing a student from the Academy roll without a formal, permanent exclusion or by encouraging a parent to remove their child from the Academy roll, when the removal is primarily in the interests of the Academy rather than in the best interests of the student.”

We will not suspend or exclude students unlawfully by directing them off site, or by not allowing them to attend the Academy:

- Without following the statutory procedure or formally recording the event, e.g. sending them home to 'cool off'.
- Because they have special educational needs and/or a disability (SEND) that the Academy feels unable to support.
- Due to poor academic performance.
- Because they haven't met a specific condition, such as attending a reintegration meeting.
- By exerting undue influence on a parent to encourage them to remove their child from the Academy.

## **2. Legislation and statutory guidance**

This policy is based on statutory guidance from the Department for Education: [Suspension and permanent exclusion from maintained schools, academies and student referral units in England, including student movement](#).

It is based on the following legislation, which outlines schools' powers to exclude students:

- Section 51a of the Education Act 2002, as amended by the Education Act 2011
- The School Discipline (Student Exclusions and Reviews) (England) Regulations 2012

In addition, the policy is based on:

- Part 7, chapter 2 of the [Education and Inspections Act 2006](#), which sets out parental responsibility for excluded students.
- Section 579 of the [Education Act 1996](#), which defines 'school day'.



- The [Education \(Provision of Full-Time Education for Excluded Students\) \(England\) Regulations 2007](#), as amended by [The Education \(Provision of FullTime Education for Excluded Students\) \(England\) \(Amendment\) Regulations 2014](#).
- [The Equality Act 2010](#).
- [Children and Families Act 2014](#).

### 3. Definitions

- **Suspension** – when a student is removed from the Academy for a fixed period. This was previously referred to as a 'fixed-term exclusion'.
- **Permanent exclusion** – when a student is removed from the Academy permanently and taken off the Academy roll. This is sometimes referred to as an 'exclusion'.
- **Off-site direction** – when a student is required to attend another education setting temporarily, to improve their behaviour.
- **Parent** – any person who has parental responsibility and any person who has care of the child.
- **Managed move** – when a student is transferred to another Academy permanently. All parties, including parents and the admission authority for the new institution, should consent before a managed move occurs.

### 4. Roles and responsibilities

#### 4.1. The Principal

##### 4.1.1. Deciding whether to suspend or exclude

Only the Principal, or acting Principal, can suspend or permanently exclude a student from the Academy on disciplinary grounds. The decision can be made in respect of behaviour inside or outside of the Academy. The Principal will only use permanent exclusion as a last resort.

A decision to suspend or exclude a student will be taken only:

- In response to serious or persistent breaches of the Academy's Behaviour Policy, **and**
- If allowing the student to remain in the Academy would seriously harm the education or welfare of others

Before deciding whether to suspend or exclude a student, the Principal will:

- Consider all the relevant facts and evidence on the balance of probabilities, including whether the incident(s) leading to the exclusion were provoked.
- Allow the student to give their version of events.
- Consider whether the student has special educational needs (SEN).



- Consider whether the student is especially vulnerable (e.g. the student has a social worker, or is a Looked-After Child (LAC))
- Consider whether all alternative solutions have been explored, such as off-site direction or managed moves.

The Principal will consider the views of the student, in light of their age and understanding, before deciding to suspend or exclude, unless it would not be appropriate to do so.

Students who need support to express their views will be allowed to have their views expressed through an advocate, such as a parent or social worker.

The Principal will not reach their decision until they have attempted to listen to the student and will always try to inform the student of how their views were taken into account when making the decision.

#### **4.1.2. Informing parents**

If a student is **at risk of suspension or exclusion** the Principal will inform the parents as early as possible, in order to work together to consider what factors may be affecting the student's behaviour, and what further support can be put in place to improve the behaviour.

This could involve:

- SEND or behavioural assessments.
- Alternative curriculum offers.
- Mentoring or counselling.
- Additional support within lessons.
- Support from outside agencies such as COBS .
- A fully risk assessed part timetable.
- A managed move to another school.
- The use of alternative provision or direction off site for a short period.

If the Principal decides to suspend or exclude a student, the parents will be informed of the period of the suspension or exclusion and the reason(s) for it, without delay.

The parents will also be provided with the following information in writing, without delay:

- The reason(s) for the suspension or exclusion.
- The length of the suspension or, for a permanent exclusion, the fact that it is permanent.
- Information about parents' right to make representations about the suspension or permanent exclusion to the FMAT Governors and how the student may be involved in this.
- How any representations should be made.



- Where there is a legal requirement for FMAT Governors to hold a meeting to consider the reinstatement of a student, and that parents (or the student if they are 18 years old) have a right to attend the meeting, be represented at the meeting (at their own expense) and to bring a friend.

The Principal will also notify parents without delay and by the end of the afternoon session on the first day their child is suspended or permanently excluded, that:

- For the first 5 days of an exclusion (or until the start date of any alternative provision or the end of the suspension, where this is earlier), the parents are legally required to ensure that their child is not present in a public place during Academy hours without a good reason. This will include specifying on which days this duty applies.
- Parents may be given a fixed penalty notice or prosecuted if they fail to do this.

If alternative provision is being arranged, the following information will be included, if possible:

- The start date for any provision of full-time education that has been arranged.
- The start and finish times of any such provision, including the times for morning and afternoon sessions, where relevant.
- The address at which the provision will take place.
- Any information the student needs in order to identify the person they should report to on the first day.

If the Principal does not have the all the information about the alternative provision arrangements by the end of the afternoon session on the first day of the suspension or permanent exclusion, they can provide the information at a later date, without delay and no later than 48 hours before the provision is due to start.

The only exception to this is where alternative provision is to be provided before the sixth day of a suspension or permanent exclusion, in which case the Academy reserves the right to provide the information with less than 48 hours' notice, with parents' consent.

#### **4.1.3. Informing the Academy Associates**

The Principal will, without delay, notify the Academy Associates of:

- any permanent exclusion (including where a suspension is followed by a decision to permanently exclude the pupil)
- any suspension or permanent exclusion which would result in the pupil being suspended or permanently excluded for a total of more than five school days (or more than ten lunchtimes) in a term; and



- any suspension or permanent exclusion which would result in the pupil missing a public examination or national curriculum test

The Principal will notify the Academy Associates (care of the vice chair) once per half term of all suspensions including those which they have not previously been notified, and the number of suspensions and exclusions which have been cancelled, including the circumstances and reasons for the cancellation.

The Trust Pastoral Lead will inform the Vice Chair of the Board once per term of all suspensions including those they have not previously been notified, and the number of suspensions and exclusions which have been cancelled, including the circumstances and reasons for the cancellation.

#### **4.1.4. Informing the Local Authority (LA)**

The Principal will notify the LA of all suspensions and permanent exclusions without delay, regardless of the length of a suspension.

The notification will include:

- The reason(s) for the suspension or permanent exclusion.
- The length of a suspension or, for a permanent exclusion, the fact that it is permanent.

For a permanent exclusion, if the student lives outside the LA in which the Academy is located, the Principal will also, without delay, inform the student's 'home authority' of the exclusion and the reason(s) for it.

#### **4.1.5. Informing the student's Social Worker and/or Virtual School Head (VSH)**

If a:

- **Student with a social worker** is at risk of suspension or permanent exclusion, the Principal will inform **the social worker** as early as possible.
- **Student who is a looked-after child (LAC)** is at risk of suspension or exclusion, the Principal will inform **the VSH** as early as possible.

This is in order to work together to consider what factors may be affecting the student's behaviour, and what further support can be put in place to improve the behaviour.

If the Principal decides to suspend or permanently exclude a student with a Social Worker / a student who is looked after, they will inform the student's Social Worker / the VSH, as appropriate, without delay, that:

- They have decided to suspend or permanently exclude the student.
- The reason(s) for the decision.



- The length of the suspension or, for a permanent exclusion, the fact that it is permanent.
- The suspension or permanent exclusion affects the student's ability to sit a National Curriculum test or public exam (where relevant).

The Social Worker/VSH will be invited to any formal meeting of the FMAT Governors relating to the suspension or permanent exclusion. This is so they can provide advice on how the student's background and/or circumstances may have influenced the circumstances of their suspension or permanent exclusion. The Social Worker should also help ensure safeguarding needs and risks and the student's welfare are taken into account.

#### **4.1.6. Cancelling suspensions and permanent exclusions**

The Principal may cancel a suspension or permanent exclusion that has already begun, but this will only be done where it has not yet been reviewed by the FMAT Governors. Where there is a cancellation:

- The parents, Academy Associates and LA will be notified without delay.
- Where relevant, any Social Worker and VSH will notified without delay.
- Parents will be offered the opportunity to meet with the Principal to discuss the cancellation.
- As referred to above, the Principal will report to the Academy Associates once per term on the number of cancellations.
- The student will be allowed back in the Academy.

#### **4.1.7. Providing education during the first 5 days of a suspension or permanent exclusion**

During the first 5 days of a suspension, if the student is not attending Alternative Provision (AP), the Principal will take steps to ensure that achievable and accessible work is set and marked for the student. Online pathways such as Microsoft Teams or Oak Academy may be used for this. If the student has a special educational need or disability, the Principal will make sure that reasonable adjustments are made to the provision where necessary.

If the student is looked after or if they have a social worker, the Academy will work with the LA to arrange AP from the first day following the suspension or permanent exclusion. Where this isn't possible, the Academy will take reasonable steps to set and mark work for the student, including the use of online pathways.





## **4.2. The Academy Association**

### **4.2.1. Considering suspensions and permanent exclusions**

The FMAT Governors have a duty to consider parents' representations about a suspension or permanent exclusion. It has a duty to consider the reinstatement of a suspended or permanently excluded student (see sections 5 and 6) in certain circumstances.

### **4.2.2. Monitoring and analysing suspensions and exclusions data**

The Academy Associates will challenge and evaluate the data on the Academy's use of suspension, exclusion, off-site direction to alternative provision and managed moves.

The Academy Associates will consider:

- How effectively and consistently the Academy's Behaviour Policy is being implemented.
- The Academy register and absence codes.
- Instances where students receive repeat suspensions.
- Interventions in place to support students at risk of suspension or permanent exclusion.
- Any variations in the rolling average of permanent exclusions, to understand why this is happening, and to make sure they are only used when necessary.
- Timing of moves and permanent exclusions, and whether there are any patterns, including any indications which may highlight where policies or support are not working.
- The characteristics of suspended and permanently excluded students, and why this is taking place.
- Whether the placements of students directed off-site into AP are reviewed at sufficient intervals to assure that the education is achieving its objectives and that students are benefiting from it.
- The cost implications of directing students off-site.

## **4.3. The Local Authority (LA)**

For permanent exclusions, the LA will arrange suitable full-time education to begin no later than the sixth working day after the first day of the exclusion.

For students who are LAC or have Social Workers, the LA and the Academy will work together arrange suitable full-time education to begin from the first day of the exclusion.



## 5. Considering the reinstatement of a student

The FMAT Governors will consider and decide on the reinstatement of a suspended or permanently excluded student within 15 working days of receiving the notice of the suspension or exclusion if:

- The exclusion is permanent.
- It is a suspension which would bring the student's total number of days out of the Academy to more than 15 in a term; or
- It would result in a student missing a public exam or National Curriculum test.
- The suspension(s) take the pupil's total number of school days out of school above five but less than 16 for the term and the parents have made representations.

Where the student has been suspended, and the suspension does not bring the student's total number of days of suspension to more than 5 in a term, the FMAT Governors must consider any representations made by parents. However, it is not required to arrange a meeting with parents and it cannot direct the Principal to reinstate the student.

Where the student has been suspended for more than 5 days, but less than 16 days, in a single term, and the parents make representations to the Trust Board, the FMAT Governors will consider and decide on the reinstatement of a suspended student within 50 working days of receiving notice of the suspension. If the parents do not make representations, the Trust Board is not required to meet and it cannot direct the Principal to reinstate the student.

Where a suspension or permanent exclusion would result in a student missing a public exam or National Curriculum test, the FMAT Governors will, as far as reasonably practicable, consider and decide on the reinstatement of the student before the date of the exam or test.

The following parties will be invited to a meeting of the FMAT Governors and allowed to make representations or share information:

- Parents, or the student if they are 18 or over (and, where requested, a representative or friend).
- The student, if they are aged 17 or younger and it would be appropriate to their age and understanding (and, where requested, a representative or friend).
- The Principal.
- The student's social worker, if they have one.
- The VSH, if the student is looked after.

The FMAT Governors will try to arrange the meeting within the statutory time limits set out above and must try to have it at a time that suits all relevant parties. However, its decision will not be invalid simply on the grounds that it was not made within these time limits.

The FMAT Governors can either:



- Decline to reinstate the student, or
- Direct the reinstatement of the student immediately, or on a particular date.

In reaching a decision, the FMAT Governors will consider:

- Whether the decision to suspend or permanently exclude was lawful, reasonable, and procedurally fair.
- Whether the Principal followed their legal duties.
- The welfare and safeguarding of the student, their peers and staff.
- Any evidence that was presented to the FMAT Governors.

Minutes will be taken of the meeting, and a record kept of the evidence that was considered. The outcome will also be recorded on the student's educational record, and copies of relevant papers will be kept with this record.

The FMAT Governors will notify, in writing, the following stakeholders of its decision, along with reasons for its decision, without delay:

- The parents, or the student, if they are 18 or older.
- The Principal.
- The student's Social Worker, if they have one.
- The VSH, if the student is looked after.
- The Local Authority.
- The student's home authority, if it differs from the Academy's.

Where an exclusion is permanent and the FMAT Governors have decided not to reinstate the student, the notification of decision will also include the following:

- The fact that it is a permanent exclusion
- Notice of parents' right to ask for the decision to be reviewed by an independent review panel.
- The date by which an application for an independent review must be made (15 working days from the date on which notice in writing of the FMAT Governors' decision is given to parents).
- The name and address to which an application for a review and any written evidence should be submitted.
- That any application should set out the grounds on which it is being made and that, where appropriate, it should include reference to how the student's Special Educational Needs (SEN) are considered to be relevant to the permanent exclusion.
- That, regardless of whether the excluded student has recognised SEN, parents have a right to require the Trust to appoint an SEN expert to advise the review panel.
- Details of the role of the SEN expert and that there would be no cost to parents for this appointment.
- That parents must make clear if they wish for an SEN expert to be appointed in any application for a review.



- That parents may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents may also bring a friend to the review.
- That, if parents believe that the permanent exclusion has occurred as a result of unlawful discrimination, they may make a claim under the Equality Act 2010 to the first-tier tribunal (special educational needs and disability), in the case of disability discrimination, or the county court, in the case of other forms of discrimination. Also, that any claim of discrimination made under these routes should be lodged within 6 months of the date on which the discrimination is alleged to have taken place

## **6. Independent review**

If parents apply for an independent review within the legal timeframe, the Trust will arrange for an independent panel to review the decision of the FMAT Governors not to reinstate a permanently excluded student.

Applications for an independent review must be made within 15 working days of notice being given to the parents by the FMAT Governors of its decision to not reinstate the student **or**, if after this time, within 15 working days of the final determination of a claim of discrimination under the Equality Act 2010 regarding the permanent exclusion.

A panel of 3 or 5 members will be constituted with representatives from each of the categories below. Where a 5-member panel is constituted, 2 members will come from the FMAT Governors category and 2 members will come from the Principal category. At all times during the review process there must be the required representation on the panel.

- A lay member to Chair the panel who has not worked in any Academy in a paid capacity, disregarding any experience as an Academy Governor or volunteer.
- Current or former FMAT Governors who have served as a Governor for at least 12 consecutive months in the last 5 years, provided they have not been Teachers or Principals during this time.
- Principals or individuals who have been a Principal within the last 5 years.

### **A person may not serve as a member of a review panel if they:**

- Are a Member/Director of the Academy Trust of the excluding Academy • Are the Principal of the excluding Academy or have held this position in the last 5 years.
- Are an employee of the Academy or a member of the Academy Associates, of the excluding Academy (unless they are employed as a Principal at another Academy)



- Have, or at any time have had, any connection with the Academy, Academy Associates, parents or student, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality.
- Have not had the required training within the last 2 years.

The panel must consider the interests and circumstances of the student, including the circumstances in which the student was permanently excluded, and have regard to the interests of other students and people working at the Academy.

Taking into account the student's age and understanding, the student or their parents will be made aware of their right to attend and participate in the review meeting and the student should be enabled to make representations on their own behalf, should they desire to.

Where a SEN expert is present, the panel must seek and have regard to the SEN expert's view of how SEN may be relevant to the student's permanent exclusion.

Where a Social Worker is present, the panel must have regard to any representation made by the social worker of how the student's experiences, needs, safeguarding risks and/or welfare may be relevant to the student's permanent exclusion.

Where a VSH is present, the panel must also have regard to any representation made by the Social Worker of how any of the child's background, education and safeguarding needs were considered by the Principal in the lead up to the permanent exclusion or are relevant to the student's permanent exclusion.

Following its review, the independent panel will decide to do one of the following:

- Uphold the FMAT Governors decision.
- Recommend that the FMAT Governors reconsider reinstatement.
- Quash the FMAT Governors decision and direct that they reconsider reinstatement (only if it judges that the decision was flawed).

New evidence may be presented, though the Academy cannot introduce new reasons for the permanent exclusion or the decision not to reinstate. The panel must disregard any new reasons that are introduced.

In deciding whether the decision was flawed, and therefore whether to quash the decision not to reinstate, the panel must only take account of the evidence that was available to the FMAT Governors at the time of making its decision. This includes any evidence that the panel considers would, or should, have been available to the FMAT Governors and that it ought to have considered if it had been acting reasonably.

If evidence is presented that the panel considers it is unreasonable to expect the FMAT Governors to have been aware of at the time of its decision, the panel can take account of the evidence when deciding whether to recommend that the FMAT Governors reconsider reinstatement.



The panel's decision can be decided by a majority vote. In the case of a tied decision, the Chair has the casting vote.

Once the panel has reached its decision, the panel will notify all parties in writing without delay.

This notification will include:

- The panel's decision and the reasons for it.
- Where relevant, details of any financial readjustment or payment to be made if the FMAT Governors do not subsequently decide to offer to reinstate the student within 10 working days.
- Any information that the panel has directed the FMAT Governors to place on the student's educational record.

## **7. Academy registers**

A student's name will be removed from the Academy admission register if:

- 15 working days have passed since the parents were notified of the FMAT Governors decision to not reinstate the student and no application has been made for an independent review panel, or
- The parents have stated in writing that they will not be applying for an independent review panel.

Where an application for an independent review has been made within 15 working days, the FMAT Governors will wait until that review has concluded before removing a student's name from the register.

While the student's name remains on the Academy's admission register, the student's attendance will still be recorded appropriately. Where Alternative Provision has been made for an excluded student and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.

Where excluded students are not attending alternative provision, code E (absent) will be used.

### **7.1. Making a return to the LA**

Where a student's name is to be removed from the Academy admissions register because of a permanent exclusion, the Academy will make a return to the LA. The return will include:

- The student's full name.
- The full name and address of any parent with whom the student normally resides.
- At least 1 telephone number at which any parent with whom the student normally resides can be contacted in an emergency.



- The grounds upon which their name is to be deleted from the admissions register (i.e., permanent exclusion).
- Details of the new school place the student will attend, including the name of that institution and the first date when the student attended or is due to attend there, if the parents have told the Academy the student is moving to another institution.
- Details of the student's new address, including the new address, the name of the parent(s) the student is going to live there with, and the date when the student is going to start living there, if the parents have informed the Academy that the student is moving house.

This return must be made as soon as the grounds for removal is met and no later than the removal of the student's name.

## **8. Returning from a suspension**

### **8.1. Reintegration strategy**

Following suspension, the Academy will put in place a strategy to help the student reintegrate successfully into academy life and full-time education.

Where necessary, the Academy will work with third-party organisations to identify whether the student has any unmet special educational and/or health needs.

The following measures may be implemented, as part of the strategy, to ensure a successful reintegration into academy life:

- Maintaining regular contact during the suspension or off-site direction and welcoming the student back to Academy.
- Daily contact in Academy with a designated pastoral professional.
- Mentoring by a trusted adult or a local mentoring charity.
- Regular reviews with the student and parents to praise progress being made and raise and address any concerns at an early stage.
- Informing the student, parents and staff of potential external support. Part-time timetables will not be used as a tool to manage behaviour and, if used, will be put in place for the minimum time necessary and will include a full FMAT risk assessment.

The strategy will be regularly reviewed and adapted where necessary throughout the reintegration process in collaboration with the student, parents, and other relevant parties.

### **8.2. Reintegration meetings**

The Academy will explain the reintegration strategy to the student in a reintegration meeting before or on the student's return to the Academy. During the meeting the Academy will communicate to the student that they are getting a fresh start and that they are a valued member of the academy community.



The student, parents, a member of senior staff, and any other relevant staff will be invited to attend the meeting.

The meeting can proceed without the parents in the event that they cannot or do not attend.

The Academy expects all returning students and their parents to attend their reintegration meeting, but students who do not attend will not be prevented from returning to the classroom.

## **9. Monitoring arrangements**

The Academy will collect data on the following:

- Attendance, permanent exclusions and suspensions.
- Use of student referral units, off-site directions and managed moves.
- Anonymous surveys of staff, students, Associates/trustees and other stakeholders on their perceptions and experiences.

The data will be analysed from a variety of perspectives including:

- At Academy level.
- By age group.
- By time of day/week/term.
- By protected characteristic.

The Academy will use the results of this analysis to make sure it is meeting its duties under the Equality Act 2010. If any patterns or disparities between groups of students are identified by this analysis, the Academy will review its policies in order to tackle it.

## **10. Links with other policies**

This exclusions policy is linked to our:

- Behaviour Policy
- SEN Policy and Information Report

## **11. FMAT Governor panel training**

Fairfax Multi Academy Trust will make sure that all members of a review panel and clerks have received training within the 2 years prior to the date of the review.





Training must have covered:

- The requirements of the primary legislation, regulations and statutory guidance governing suspensions and permanent exclusions on disciplinary grounds, which would include an understanding of how the principles applicable in an application for judicial review relate to the panel's decision making.
- The need for the panel to observe procedural fairness and the rules of natural justice.
- The role of the Chair and the Clerk of a review panel.
- The duties of Principals, FMAT Governors and the panel under the Equality Act 2010.
- The effect of section 6 of the Human Rights Act 1998 (acts of public authorities unlawful if not compatible with certain human rights) and the need to act in a manner compatible with human rights protected by that Act.



