

TITLE OF REPORT: Permanent Exclusions-a Funding Proposal

Purpose of report

The purpose of this report is to inform Schools Forum of the process for charging schools a tariff following a permanent exclusion.

Background

Schools have the right to permanently exclude a pupil on disciplinary grounds. Pupils can be excluded for one or more fixed term periods (up to a maximum of 45 days in a single school year which if exceeded means that a pupil is automatically permanently excluded) or permanently.

In exceptional cases, usually where further evidence has come to light, a fixed period exclusion may be extended or converted to a permanent exclusion. A Headteacher may also withdraw a permanent exclusion if it has not been considered by the school/academy governing body.

It is unlawful to exclude or increase the severity of exclusion for a non-disciplinary reason. Exclusions are undertaken as a direct result of a disciplinary issue. Behaviour that is disruptive over the lunchtime period may result in a lunchtime exclusion and is counted as a half day exclusion to give parents the right to challenge this via the school governors discipline panel.

The behaviour of pupils outside of school or attending alternative provision can be considered as ground for exclusion, this will be a matter of judgement on the part of the Headteacher in accordance with the school's published behaviour policy.

All exclusions must be made in line with the principles of administrative law in that they are lawful (including the schools wider legal duties as well as guidance on exclusion), rational, reasonable, fair and proportionate. The Headteacher must also apply the civil standard of proof when considering the use of exclusion i.e. the balance of probabilities that a pupil did what they are accused of rather than the criminal standard, beyond reasonable doubt.

Informal or unofficial exclusions, such as sending pupils home to 'cool off' are unlawful regardless of whether or not they occur with the agreement of the parents/carers. The threat of exclusion must never be used in order to influence a parent to remove their child from a school.

Whilst there is no role in the exclusion guidance for a dedicated LA officer, all schools in Gateshead including academies have access to one to ensure the robustness of their decisions in relation to other schools practice and national guidance. All schools work within the fair access process and use the secondary Pupil Placement Panel or the primary Fair Access Panel to consider managed moves to avoid permanent exclusion or to reintegrate a permanently excluded student back into a mainstream school/academy.

Once a Headteacher makes the decision to permanently exclude, the Headteacher must notify the parents, local authority and the governing body of their decision to permanently exclude a pupil. At this point the local authority will consider this as a permanent exclusion.

The governing body must convene a meeting within 15 days of receiving notice of the permanent exclusion in order to consider the reinstatement of the excluded pupil. If they support the decision to permanently exclude the pupil the exclusion is considered to be 'upheld' by the local authority.

If the permanent exclusion is upheld by the school/academy governing body a parent has the right to request that an independent review panel review their child's permanent exclusion, which is currently arranged via Legal, Democratic and Property Services for all schools including academies. Since the introduction of this review process in 2012 we have had 9 appeals lodged; 2 were withdrawn by the parents, 7 were heard and upheld and 2 were found in favour of the parents.

Permanent Exclusions

Gateshead has 7 secondary academies, 2 maintained secondary schools, 1 secondary Pupil Referral Unit, 1 secondary SEMH (social, emotional and mental health problems) special school and 1 CTC (City Technology College). The following table shows the number of secondary permanent exclusions since the 2004/5 academic year, including the provisional data for the autumn term 2015.

	2004/5	2005/6	2006/7	2007/8	2008/9	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16 Autumn term
Charles Thorp							3		3	2	3	3
Emmanuel							1		3	3	2	2
Heworth Grange	3	3	Nil	3	1	1	3	0	3	1	5	
Hookergate	Nil	2	2	Nil	1	1	1	N/A	N/A	N/A	N/A	
Joseph Swan	3	4	4	4	2	4	1	4	3	2	5	2
Kingsmeadow	2	Nil	Nil	1	5	1	3	7	4	4	2	5
Lord Lawson	1	5	6	3	1	3	1	1	1	2	7	5
Ryton	Nil	1	2	1	1	2	3	N/A	N/A	N/A	N/A	
St Edmund Campion/Cardinal Hume	6	8	6	2	1	4	2	Nil	2	2	3	3
St Thomas More	3	1	1	1	2	5	Nil	2	3	2	9	1
Thomas Hepburn	10	3	6	11	5	6	6	3	3	3	6	3
Whickham	3	2	1	1	Nil	2	6	2	1	2	12	1
Furrowfield	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil		
PRU	1	Nil	Nil	Nil	Nil	Nil	Nil	2	Nil	1		
Extra District												1
Total	31	30	28	27	19	29	26	24	28	24	54	26

Overview of Permanent Exclusions 2014/15

During the 2014/15 academic year in addition to the 54 permanent exclusions, data shows that there have been 7 secondary permanent exclusions (not included in the above data) which were withdrawn; two were statemented pupils and one was a looked after child.

Permanent exclusions didn't follow a set pattern during the academic year. By the end of the autumn term there were 19 permanent exclusions, by the end of the Spring term there were 17 permanent exclusions and by the end of the Summer term there were 18 permanent exclusions.

The majority of pupils permanently excluded were in Key Stage 4; Year 10 (21) and Year 11(10) followed by Year 8 (10), with approximately 2/3 of those being permanently excluded being male.

The use of/selling of drugs (12), violence (15) and disruptive behaviour (22) appear to be the main reasons for permanent exclusion from school. Of those pupils who have been permanently excluded only 1 pupil was receiving special educational needs (SEN) support.

Of those permanently excluded for drugs, none were known to Platform prior to their permanent exclusion.

Although 8 of the pupils had a history of more than 3 fixed term exclusions, 15 had only 1 fixed term exclusion and 12 had no prior history of fixed term exclusion, meaning 50% of those pupils permanently excluded had 1 or less

fixed term exclusion. It should be noted that the local authority has no data on the number of internal school sanctions/internal exclusions which may or may not surround these pupils.

Of those permanently excluded 10 were known to the In School Support Team.

Whilst a large number of pupils permanently excluded ended up at the PRU; 13 were dual registered with the PRU and placed back into mainstream school/academy via the Pupil Placement Panel.

Permanent Exclusions-2015/16 Academic year (Autumn Term)

During the autumn term of the 2015/16 academic year there have been 27 permanent exclusions, of which 26 were secondary and 1 was primary. In addition there have been 5 permanent exclusions withdrawn and 1 reinstated on appeal.

The majority of pupils permanently excluded in the autumn term 2015/16 were in KS 4; Year 10 (10) and Year 11(6) followed by Year 9 (5), with approximately 75% of those being permanently excluded being male.

Disruptive behaviour (17) appeared to be the main reasons for permanent exclusion from school.

Of those permanently excluded for drugs, none were known to Platform prior to their permanent exclusion.

Although 1 of the pupils had a history of more than 5 fixed term exclusions, 2 had only 1 fixed term exclusion and 9 had no prior history of fixed term exclusion, meaning 42% of those pupils permanently excluded had 1 or less fixed term exclusion.

All of the pupils who were permanently excluded in the autumn term ended up at the PRU, to a large extent this was driven by the fact that 21/26 permanent exclusions were for ongoing disruptive and defiant behaviour (17), physical assault (2) and dangerous behaviour (2). These Behaviours would almost always warrant time in the PRU for an assessment of their behaviour before a move to another school is considered.

Conclusion

Over the past 18 months, there has been a sharp increase in permanent exclusions; reasons for this may include:

- Increased pressure by Ofsted to meet floor targets
- A rise in the number of drug related permanent exclusions (drug related exclusions)

- A rise in the number of incidents relating to persistently defiant/disruptive behaviour
- A rise in the number of violence related behaviours to both staff and pupils
- Perceived lack of secondary preventative strategies
- Lack of suitable quality assured alternative provision at KS4
- Lack of clarity of the remit of the PRU
- Lack of an overarching strategy to support vulnerable pupils which includes the PRU, schools/academies and the local authority services
- School financial resources being under increasing pressure

Permanently Excluded Pupils

In February 2015 School forum agreed to that the school's budget share that the pupil is moving from is reduced by the amount $A \times (B/52) + C$ where

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The regulations state (extract in appendix 1) A to be the amount determined by the authority in accordance with Schools and Early Years Finance Regulations (England 2014) that would be attributable to a pupil of the same age and personal circumstances as the pupil in question, and B is either-

(i) the number of complete weeks remaining in the funding period calculated from the relevant date; or

(ii) where the permanent exclusion takes effect on or after 1st April in a school year

- (a) at the end of which pupils of the same age, or age group, as the pupil in question normally leave that school before being admitted to another school with a different pupil age range,
- (b) the number of complete weeks remaining in that school year calculated from the relevant date

C is the amount of the adjustment made to the school's budget share under a financial adjustment order.

The amount that the authority would determine will include pupil premium funding, and any other additional grant(s).

If a mainstream, school/academy then takes a permanently excluded pupil they will receive the amount determined by the authority in proportion to the number of weeks remaining in the financial year for which the pupil is registered at the new school.

If there is a time lag between a pupil being permanently excluded from a maintained school/academy and being registered at another maintained school/academy, the funding for this period of time will be transferred to the

Education Support Service to provide interim support and education for the pupil.

If for whatever reason the pupil remains 'off roll' the funds will be transferred into the appropriate budget held by the Education Support Service but managed by the secondary Pupil Placement Panel and for primary pupils the Fair Access Panel.

These funds will be used toward suitable educational provision including alternative provision for the pupil until such time as they are placed onto the roll of a maintained school/academy or PRU.

If the excluded pupil joins a Pupil Referral Unit then the funding would be transferred to the High Needs Block as the PRU is funded through top up funding from the High Needs Block.

If pupils are excluded from an out-borough school and then come to a mainstream Gateshead school/academy, funding should be recouped from the out of borough school as it would be from a Gateshead maintained school/academy.

Maintained schools will be notified of any adjustments to their funding and academies will be invoiced. All schools will receive details of the pupil(s) for whom funding has been reduced.

Permanent Exclusions - A Proposal

Secondary permanent exclusions are on the increase in Gateshead. Last year permanent exclusions increased from 24 in 2013/14 to 56 in 2014/15 (54 secondary and 2 primary). This year (February 2016) there is 35 permanent exclusions (34 secondary and 1 primary) with a further 7 permanent exclusions pending.

Due to the increase in permanent exclusions, high needs top ups and placements area of the high needs block is projected to overspend by approximately £250K for 2015/16. If the current pattern of permanent exclusions continues it is estimated that the overspend for 2016/17 would exceed £500K. In order to mitigate this overspend a new funding formula will be implemented from April 2016 for the PRU. The formula will isolate fixed costs and provide per pupil funding for each permanently excluded pupil depending on the pupils needs, and it is anticipated that this will reduce the projected overspend for 2016/17 to £100K. In order to address this issue the following options are being proposed.

Option 1(from April 2016)

A financial adjustment of £2000.00 is made for each pupil who is permanently excluded. This would be in addition to the transfer of AWPU, IDACI, Pupil Premium etc which was agreed previously.

If this doesn't address the short fall then Option 2 is proposed from April 2017. All secondary heads have been consulted on the above process and dismissed the tariff arrangement.

Option 2 (from April 2017)

A mainstream funding review is undertaken to reduce the funding available to mainstream schools to provide funding for high needs top ups and placements. The review will take into account the number of permanent exclusions in each sector. Funding from this top-slice could be released in a number of ways:-

- Reduced primary and secondary lump sums in proportion to the number of permanent exclusions in each sector
- Reduce AWPU's in proportion to the number of permanent exclusions in each sector.

Proposal

That Schools Forum notes the report and that further work will be undertaken to resolve funding pressures in the high needs block and to provide sufficient funding to support the increasing numbers of permanently excluded children.

Recommendations

That Schools' Forum notes the report and that further work will be undertaken to resolve the funding pressures in the high needs block, and the cost of educating permanently excluded pupils.

For the following reason(s):

- To ensure that there is sufficient funding to provide funding for the high needs block
- To ensure that there is sufficient funding to educate permanently excluded pupils
- To ensure that there arrangements are fair and transparent

CONTACT: Jeanne Pratt

ext. 8644

Appendix 1

Pupils permanently excluded from, or leaving, maintained schools

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(1) Where a pupil is permanently excluded from a school maintained by a local authority (other than a special school, a pupil referral unit, or a place which the authority has reserved for children with special educational needs) (“the excluding school”) the authority must re-determine the excluding school’s budget share in accordance with paragraph (2).

(2) The excluding school’s budget share must be reduced by $A \times (B / 52) + C$ where—

(a) *A* is the amount determined by the authority in accordance with this Part that would be attributable to a pupil of the same age and personal circumstances as the pupil in question at primary or secondary schools maintained by the authority for the full funding period;

(b) *B* is either—

(i) the number of complete weeks remaining in the funding period calculated from the relevant date; or

(ii) where the permanent exclusion takes effect on or after 1st April in a school year at the end of which pupils of the same age, or age group, as the pupil in question normally leave that school before being admitted to another school with a different pupil age range, the number of complete weeks remaining in that school year calculated from the relevant date; and

(c) *C* is the amount of the adjustment made to the school’s budget share under a financial adjustment order.

(3) Where a pupil who has been permanently excluded from the excluding school and is admitted to another school maintained by a local authority (other than a special school, a pupil referral unit, or to a place which the authority has reserved for children with special educational needs) (“the admitting school”) in the funding period, the authority must re-determine the admitting school’s budget share in accordance with paragraphs (4) and (5).

(4) The admitting school’s budget share must be increased by an amount which is not less than

$D \times (E / F)$ where—

(a) *D* is the amount by which the authority reduced the budget share of the excluding school, or would have reduced the budget share if that school had been maintained by the authority, except that any reduction in the excluding school’s budget share made under a financial adjustment order must not be taken into account for these purposes;

(b) *E* is the number of complete weeks remaining in the funding period during which the pupil is a pupil at the admitting school; and

(c) *F* is the number of complete weeks remaining in the funding period calculated from the relevant date.

(5) In re-determining the admitting school’s budget share, the authority may increase it by any amount up to the amount of the adjustment made by the excluding school’s budget share under a financial adjustment order.

(6) Where a permanently excluded pupil is subsequently reinstated by the governing body of the school, the school’s budget share must be increased by an amount which is no less than $G \times (H / I)$ where—

(a) *G* is the amount by which the authority reduced the school’s budget share under paragraph (2);

(b) H is the number of complete weeks remaining in the funding period during which the pupil is reinstated; and
(c) I is the number of complete weeks remaining in the funding period calculated from the relevant date.

(7) Paragraphs (1) and (2) also apply where a pupil leaves a maintained school (other than a special school, a pupil referral unit, or a place which the authority has reserved for children with special educational needs) for reasons other than permanent exclusion and is receiving education funded by a local authority other than at a school which is maintained by that authority.

(8) For the purposes of paragraph (2)(a), the amount attributable to a pupil is the sum of the amounts determined in accordance with the authority's formula, by reference to pupil numbers rather than by reference to any other factor or criterion not dependent on pupil numbers (except that where a sixth form grant is payable in respect of the pupil in question, the amount attributable to that pupil is £4,000 for the funding period).

(9) Where a pupil in respect of whom a pupil premium is payable has been permanently excluded from a school maintained by a local authority ("the excluding school"), the local authority must re-determine the excluding school's budget share in accordance with paragraph

(10).

(10) The excluding school's budget share must be reduced by $J \times (K / 52)$ where—

(a) J is the amount of the pupil premium allocated to the excluding school for the funding period in respect of that child; and

(b) K is either—

(i) the number of complete weeks remaining in the funding period calculated from the relevant date; or

(ii) where the permanent exclusion takes effect on or after 1st April in a school year at the end of which pupils of the same age, or age group, as the pupil in question normally leave that school before being admitted to another school with a different pupil age range, the number of complete weeks remaining in that school year calculated from the relevant date.

(11) Where a pupil in respect of whom a pupil premium is payable has been permanently excluded from a school maintained by a local authority and admitted to another school maintained by a local authority ("the admitting school") in the funding period, the authority must re-determine the budget share of the admitting school in accordance with paragraph (12).

(12) The admitting school's budget share must be increased by an amount which is not less than $L \times (M / N)$ where—

(a) L is the amount by which the authority reduced the budget share of the excluding school or would have reduced the budget share had that school been maintained by the authority;

(b) M is the number of complete weeks remaining in the funding period during which the pupil is a pupil at the admitting school; and

(c) N is the number of complete weeks remaining in the funding period calculated from the relevant date.

(13) Where a permanently excluded pupil in respect of whom a pupil premium is payable is subsequently reinstated by the governing body of the school, the school's budget share must be increased by an amount which is no less than $O \times (P / Q)$ where—

(a) O is the amount by which the authority reduced the school's budget share under paragraph (10);

(b) P is the number of complete weeks remaining in the funding period during which the pupil is reinstated; and

(c) Q is the number of complete weeks remaining in the funding period calculated from the relevant date.

(14) Paragraphs (9) and (10) also apply where a pupil in respect of whom a pupil premium is payable leaves a maintained school for reasons other than permanent exclusion and is receiving education funded by a local authority other than at a school which is maintained by that authority.

(15) For the purposes of this regulation—

(a) “the relevant date” is the sixth school day following the date on which the pupil has been permanently excluded; and

(b) “a financial adjustment order” means an order for the adjustment of a school’s budget share made under regulation 25(5)(b) of the School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012(a) in respect of the exclusion of the pupil from the excluding school.