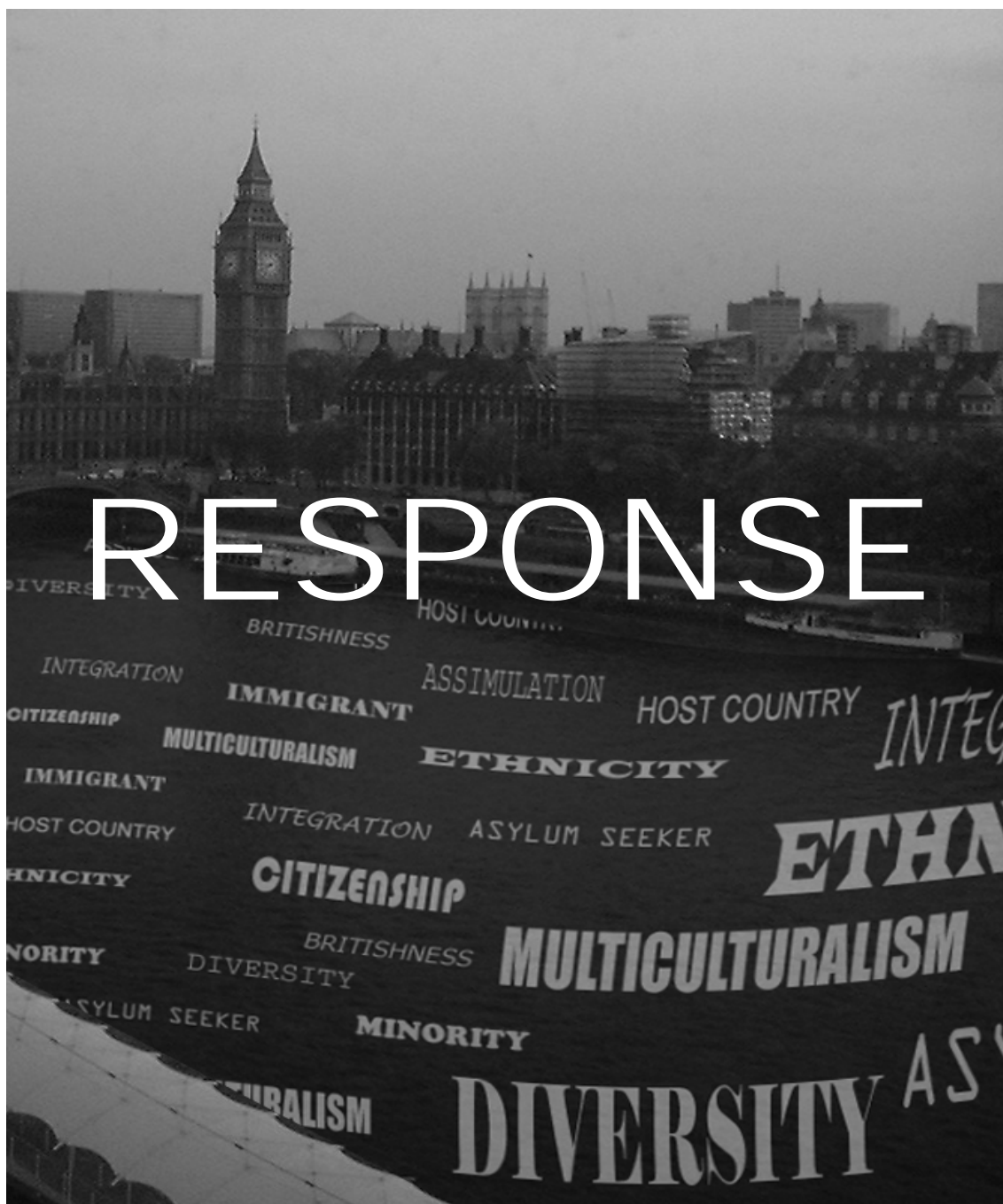




RACE ON THE AGENDA

RESPONSE TO THE DfES REVISED
GUIDANCE ON EXCLUSION FROM
SCHOOL: DRAFT FOR CONSULTATION

April 2002



History and Background

Race on the Agenda (ROTA) is a social policy and research organisation based in London. Formerly known as GLARE (Greater London Action for Race Equality), ROTA enjoys a well-established and strong reputation as an innovative social policy think tank.

ROTA plays an important role in undertaking policy development and research work on issues affecting London's Black and Minority Ethnic (BME)¹ communities and particularly specialises in the fields of education, regeneration, health, policing and crime and disorder issues.

The organisation works closely with the voluntary and statutory sectors to ensure that the needs of BME communities are placed high on the agenda in the policies, planning and delivery of a range of services.

Executive Summary

ROTA's key priorities and concerns in the education field are:

- To address the disproportionately high numbers of African-Caribbean school children that are excluded from school.
- To challenge the factors contributing to Black underachievement in schools.
- To promote inclusive schools and an inclusive curriculum.
- To disseminate information relating to education policy and initiatives to BME communities.

ROTA's commitment to the establishment of inclusive schools led to the publication of "**Inclusive schools, Inclusive Society**". This publication illustrates the positive examples and good practice that some schools have implemented throughout the curriculum and school regime to tackle the issues of Black underachievement and the high levels of exclusion that Black children encounter.

ROTA is responding to this *Revised Guidance* document because we are concerned of its impact and implications for Black children in particular. We would like to see a more systematic approach to school exclusions being implemented by the Government. Recent research² has indicated that Black children are still treated more severely than white children for similar offences. ROTA suggests that it is primarily due to the lack of systematic guidelines and an over reliance upon the judgement of individual heads that results in the high numbers of Black children being permanently excluded from schools.

¹ ROTA uses the term Black Minority Ethnic to refer to all groups who are discriminated against on the grounds of their race, culture, colour, nationality or religious practices. This definition includes but is not exclusive to those people of African, Asian, Caribbean, South East Asian, Irish, Roma and Jewish decent.

² *Not a problem? Girls and school exclusion*, Audrey Osler, Cathy Street, Marie Lall and Kerry Vincent, 2002, National Children's Bureau and JRF.

Introduction

The initial Guidance on the use of school exclusions and exclusion procedures that formed part of Circular 10/99 **“Social Inclusion: Pupil Support”** was generally seen as a positive response from the Government. The Circular recognised the relationship between school exclusions and social exclusions and as a result placed emphasis upon **“early intervention and prevention through multi – agency working, and through partnership with parents”**.

The circular was issued to schools **“to reduce the risk of disaffection among pupils” and was meant to be “seen in the context of wider action, nationally and locally, to prevent social exclusion”**.

ROTA is concerned that the *Revised Guidance* on Exclusion from School appears to be moving away from reducing disaffection and preventing exclusions and instead seems to allow more opportunities for individual head teachers to exclude pupils without emphasising the use of other approaches. For example the introduction to the revised Chapter 6 now states:

"The Governing body and head teacher of a school are responsible for promoting good behaviour and discipline on the part of the school's pupils and for securing an orderly and safe environment for pupils and staff. **It is right that head teachers have discretion to deal with pupils who are displaying challenging behaviour. Responses to such behaviour should be made in the context of the school's behaviour policy and should encompass a range of strategies, with exclusion as one option, so that the interests of the whole school are reflected in the action taken**".

ROTA would suggest that the above introductory paragraph be supplemented with a list of **"a range of strategies"** so those following the guidance are reminded of what the alternatives to formal school exclusions are. ROTA is also disappointed that the *Revised Guidance* has removed one of the most important sentences from this introductory sentence. Circular 10/99 stated that **"a permanent exclusion can be given for a first offence, for example involving violence, but only when the head teacher has had further opportunity (not in the heat of the moment) to consider the incident in question."** This should be reinstated in to the *Revised Guidance* particularly under paragraph 6.3 which has expanded the offences for when a permanent exclusion is justified for a one off or first offence.

ROTA is therefore concerned with the following general implications of the *Revised Guidance*:

- More acceptance of the need for school exclusions and less emphasis on implementing alternative approaches to prevent exclusion. (Mostly applicable to Chapter 6 introduction).
- An increased emphasis on individual head teachers discretion and judgement. (Mostly applicable to 6.3).
- Removal of the statement that reinforces the view that decisions about exclusion need to be taken seriously by emphasising to head teachers not to “exclude in the heat of the movement”. (Mostly applicable to 6.2. 6.4).

- Less emphasis upon the link between school exclusion and social disadvantage. (Applicable to 6.9).
- Less emphasis upon the needs and rights of the disaffected / excluded child and more concern expressed in the interest of the whole school. (Applicable to chapter 6 and Annex D).

Chapter 6 Concerns

Para 6.3: Exceptional Circumstances for a First or One Off Offence

ROTA appreciates the fact that schools are no longer as safe as they used to be and in principle welcome the carrying of an offensive weapon as a circumstance to exclude a child for a first time or one off offence. However, we strongly feel that the possession of an offensive weapon should not always result in a permanent exclusion because it has the potential to marginalise those already on the fringes of society. It may also be useful to give examples of what constitutes an offensive weapon.

ROTA would like clearer details of what is meant by "Sexual misconduct". Would the youngest of school pupils be permanently excluded if their behaviour was interpreted by a teacher or parent to mean this?

ROTA suggests that the previous term of "Sexual abuse" as used in Circular 10/99 is a more appropriate reason for permanently excluding pupils and should be reinstated.

The term sexual misconduct can include a wide range of behaviour and could therefore if implemented without further clarity leading to an increase in the rate of unnecessary permanent exclusions.

Para 6.4: Considerations for Head Teacher Before Reaching a Decision to Exclude

ROTA is extremely worried by the change in emphasis and language that is used for the *Revised Guidance* in relation to the head teachers considerations before reaching a decision to exclude permanently or for a fixed term.

The original circular 10/99 stated:

"Head teachers should consider all the relevant facts and firm evidence to support the allegations made, and take into account the school's policy on equal opportunities. **If there is doubt that the pupil actually did what is alleged, the head teacher should not exclude the pupil**".

The *Revised Guidance* has unfortunately omitted the most crucial sentence (the one highlighted above), which if included would mean that in situations where there is uncertainty that the pupil did what they were being accused of, they quite rightly would not be excluded.

As well as removing the above crucial sentence the new Guidance also asserts that:

"If satisfied on the balance of probabilities that the pupil did what he or she is alleged to have done, the head teacher may exclude the pupil. In certain circumstances, **however even though the head teacher cannot be so satisfied as to the allegation in question, it may nevertheless be appropriate to exclude the pupil.**"

The change in emphasis and language from Circular 10/99 in this instances is alarming. ROTA is aware of the extremely devastating effects that school exclusions can lead to and strongly condemns this change in emphasis and language. We firmly believe that it is wrong to exclude a pupil for a fixed or permanent term if there is any doubt that a pupil did what they were accused of. Therefore we recommend that the original statement relating to doubt from Circular 10/99 should be reinserted in to this section.

Furthermore, the following sentence referring to the head teacher "**not being satisfied as to the allegation in question, it may nevertheless be appropriate to exclude the pupil**" should be removed as it is morally wrong to exclude if there is any doubt about what happened.

Para 6.7: Education of Excluded Pupils

ROTA is satisfied to see the *Revised Guidance* stating the Government's commitment to ensuring that by September 2002 all pupils excluded for more than 15 consecutive school days receive full time and appropriate education whilst excluded.

This measure if implemented systematically and through adequate funding levels for appropriate education will help to ensure that pupils who are excluded are not further disadvantaged by a lack of formal education.

Para 6.9: Behaviour Off School Premises and/or Outside school Hours

This will enable a head teacher to exclude a child for behaviour outside school if there is a clear link between the misconduct in question and the promotion of good behaviour and discipline on the part of the school's pupils. Again, it is left up to the individual head teachers judgement. ROTA would like clarification on whether this means head teachers have a right to interfere in the lives of their pupils outside school hours. Is this what the guidance aims for? It is inappropriate for heads to exclude pupils on the basis of their behaviour outside of school hours if there is no recognition or challenge to the social disadvantages and inadequacies that lead to misconduct outside of school hours.

Annex D: Procedures for Excluding a Pupil

Introductory Section of Annex D

ROTA welcomes the *Revised Guidance's* reference to schools providing translated documentation in mother tongue languages for parents of excluded pupils whose first language is not English. Even more useful is the responsibility



placed on schools and LEAs to provide an interpreter to be present at any meetings with the parent about the exclusion. This reference needs to be separated from the paragraph so that it is displayed as being distinct from the sentences that identify the types of schools the procedures apply and not apply to.

1. Informing Parents About the Exclusion

The *Revised Guidance* states "**whenever a head teacher excludes a pupil the parent should be notified immediately, ideally by telephone followed by a letter as soon as possible**". This is inadequate as it implies that there is no urgency to notify parents. ROTA would like the previous Guidance statement "**and that the telephone call is followed by a letter within one school day**".

The *Revised Guidance* should reinstate the omission from Circular 10/99, Annex D so that the letter to parents not only explains "**reasons for the exclusion but also the steps taken to try to avoid exclusion**". This would ensure that parents are aware of what steps were taken to avoid the exclusion and if they were given sufficient time to have the desired effect. This new proposal worryingly moves away from reinforcing the importance of steps taken to prevent the exclusion and instead appears to be hastening along the formal exclusion process.

This section should conclude by the reinstatement of "**all correspondence should be in plain English and avoid unnecessary jargon**". This should be placed next to the statement about treating all cases of exclusion in the strictest confidence as in previous Annex D.

2. Informing the Discipline Committee

ROTA agrees with the Revised Guidance's continuation of the head teacher informing the LEA and the Disciplinary Committee of fixed period exclusions totalling less than six days. This needs to remain in the guidelines because recent research has demonstrated that short fixed term exclusions are on the increase. By continuing to monitor these at LEA level it will become further apparent whether these short term fixed exclusions are being used at a proportionately high level for some groups depending on their race and gender.

3. Arranging an Appeal Hearing

ROTA appreciates that those children who have been bullied would like to comment upon the incident at the appeal hearing and therefore accept that the guidance continues to reinforce this. However the Guidance should also include information on how an alleged victim's safety can be guaranteed when they come face to face with a perpetrator who maybe excluded on the basis of the victims evidence. (Paragraph 25).

Paragraph 34 Reinstatement

This implies that the interests of the school are more important than what is likely to happen to an individual who will be excluded. ROTA feels that the statement should mention that "**in deciding whether to direct reinstatement the panel**

must balance the effects of the reinstatement and its effect on other school members with the need of the individual also foremost in mind".

The section also outlines circumstances where reinstatement is inappropriate and includes "persistent and defiant behaviour, this would encompass bullying including homophobic bullying". The Guidance needs to clarify if this also means racist and sexual bullying. Racist bullying has often resulted in the victim responding to systematic verbal or physical abuse and being excluded as a result.

Recommendations for Revised Guidance

Chapter 6

- More emphasis should be placed upon the fact that school exclusions lead to social exclusion. Therefore the Guidance should list the range of strategies that should have been followed before deciding to exclude.
- The sentence omitted from Circular 10/99 stating that "exclusions should not be decided in the heat of the moment" should be reinstated.
- **Para 6.3** should identify what constitutes an offensive weapon.
- **Para 6.3** should replace the term "Sexual misconduct" with the previous term of "sexual abuse".
- **Para 6.4** The final paragraph of Chapter 6 needs to be removed. No pupil should be excluded if the head teacher cannot be fully satisfied of what has happened. Therefore this should be replaced by the sentence used in Circular 10/99 which stated "**if there is doubt that the pupil actually did or what is alleged, the head teacher should not exclude the pupil**".
- **Para 6.9** The guidance needs to clarify the extent of the head teachers influence over a pupil's behaviour "off school premises and/or outside school hours".

Annex D

- The Guidance should state "telephone call is followed by a letter within one school day" instead of "as soon as possible".
- The Guidance should state that the letter to parents should outline the reasons for the exclusion but in addition (as in the previous guidance) also include "steps taken to try to avoid exclusion"
- The Guidance should reinsert the sentence relating to the requirement of all correspondence being in plain English and avoiding unnecessary jargon.
- The Guidance should include information on how an alleged victim's safety can be ensured if they face the alleged perpetrator at an appeal hearing.
- The term homophobic bullying should include and refer to sexual and racial bullying also as reasons for not usually reinstating.

For more information about this briefing please contact **Haleema Aslam**, Haleema@rota.org.uk. For more information about other ROTA publications and Briefings contact **Sharon Jessa**, Sharon@rota.org.uk.

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Registered Charity 1064975/0
Company Limited by Guarantee 3425664
ROTA is funded by the Association of London Government, Bridge House Estates Trust Fund, City Parochial Foundation and the Community Fund.