



# Exclusions and Appeals Policy

Responsibility	Students, Parents and Community	
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## 1. Aims

Our school aims to ensure that:

- The exclusions process is applied fairly and consistently
- The exclusions process is understood by governors, staff, parents and students
- Students in school are safe and happy
- Students do not become NEET (not in education, employment or training)

## 2. Legislation and statutory guidance

This policy is based on statutory guidance from the Department for Education: Exclusion from maintained schools, academies and pupil referral units (PRUs) in England.

It is based on the following legislation, which outline schools' powers to exclude pupils:

- Section 52 of the Education Act 2002, as amended by the Education Act 2011
- The School Discipline (Pupil 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 looks at parental responsibility for excluded pupils
- Section 579 of the Education Act 1996, which defines 'school day'
- The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007, as amended by The Education (Provision of Full-Time Education for Excluded Pupils) (England) (Amendment) Regulations 2014
- and articles of association.

## 3. The decision to exclude

Only the Head Teacher, or acting Head Teacher, can exclude a Head Teacher from school. A permanent exclusion will be taken as a last resort.

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

*"...the practice of removing a pupil from the school roll without a formal, permanent exclusion or by encouraging a parent to remove their child from the school roll, when the removal is primarily in the interests of the school rather than in the best interests of the pupil."*

We are committed to following all statutory exclusions procedures to ensure that every child receives an education in a safe and caring environment.

A decision to exclude a Head Teacher will be taken only:

- In response to serious or persistent breaches of the school's behaviour policy, **and**
- If allowing the student to remain in school would seriously harm the education or welfare of others
- Before deciding whether to exclude a student, either permanently or for a fixed period, the Head Teacher will:
  - Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked
  - Allow the student to give their version of events
  - Consider if the student has special educational needs (SEN)

#### **4. Definition**

For the purposes of exclusions, school day is defined as any day on which there is a school session. Therefore, INSET or staff training days do not count as a school day.

#### **5. Roles and responsibilities**

##### **5.2 The Head Teacher**

###### **Informing parents**

The Head Teacher will immediately provide the following information, in writing, to the parents of an excluded student:

- The reason(s) for the exclusion
- The length of a fixed-term exclusion or, for a permanent exclusion, the fact that it is permanent
- Information about parents' right to make representations about the exclusion to the trust board and how the student may be involved in this
- How any representations should be made
- Where there is a legal requirement for the governing board to meet to consider the reinstatement of a student, and that parents have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend

The Head Teacher will also notify parents by the end of the afternoon session on the day their child is excluded that for the first 5 school days of an exclusion, or until the start date of any alternative provision where this is earlier, parents are legally required to ensure that their child is not present in a public place during school hours without a good reason. 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 when notifying parents of an exclusion:

- 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 required by the student to identify the person they should report to on the first day

Where this information on alternative provision is not reasonably ascertainable by the end of the afternoon session, it may be provided in a subsequent notice, but it will be provided 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 an exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent.

###### **Informing the governing board and local authority**

The Head Teacher will immediately notify the trust board and the local authority (LA) of:

- A permanent exclusion, including when a fixed-period exclusion is followed by a decision to permanently exclude a student
- Exclusions which would result in the student being excluded for more than 5 school days (or more than 10 lunchtimes) in a term
- Exclusions which would result in the student missing a public examination

For a permanent exclusion, if the student lives outside the LA in which the school is located, the Head Teacher will also immediately inform the student's 'home authority' of the exclusion and the reason(s) for it without delay. For all other exclusions, the Head Teacher will notify the governing board and LA once a term.

## **5.2 The trust board**

Responsibilities regarding exclusions are delegated to the Exclusion Panel.

The Exclusion Panel has a duty to consider the reinstatement of an excluded student (see section 6).

The trust board has a duty to consider the reinstatement of an excluded student (see section 6).

Within 14 days of receipt of a request, the trust board will provide the secretary of state with information about any exclusions in the last 12 months.

For a fixed-period exclusion of more than 5 school days, the trust board will arrange suitable full-time education for the Head Teacher. This provision will begin no later than the sixth day of the exclusion.

Provision does not have to be arranged for students in the final year of compulsory education who do not have any further public examinations to sit.

## **5.3 The LA**

For permanent exclusions, the LA is responsible for arranging suitable full-time education to begin no later than the sixth day of the exclusion.

## **6. Considering the reinstatement of a student**

The Exclusion Panel will consider the reinstatement of an excluded student within 15 school days of receiving the notice of the exclusion if:

- The exclusion is permanent
- It is a fixed-term exclusion which would bring the student's total number of school days of exclusion to more than 15 in a term
- It would result in a student missing a public examination or national curriculum test

If requested to do so by parents, Exclusion Panel will consider the reinstatement of an excluded student within 50 school days of receiving notice of the exclusion if the student would be excluded from school for more than 5 school days, but less than 15, in a single term.

Where an exclusion would result in a student missing a public examination, Exclusion Panel will consider the reinstatement of the student before the date of the examination. If this is not practicable, the [name of committee of the governing board] will consider the exclusion and decide whether or not to reinstate the student.

Exclusion Panel can either:

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

In reaching a decision, Exclusion Panel will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the Head Teacher followed their legal duties. They will decide whether or not a fact is true 'on the

balance of probabilities', which differs from the criminal standard of 'beyond reasonable doubt', as well as any evidence that was presented in relation to the decision to exclude.

Minutes will be taken of the meeting, and a record of evidence considered kept. The outcome will also be recorded on the student's educational record.

Exclusion Panel will notify, in writing, the headteacher, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, Exclusion Panel decision will also include the following:

- The fact that it is permanent
- Notice of parents' right to ask for the decision to be reviewed by an independent review panel, and:
- The date by which an application for an independent review must be made
- The name and address to whom an application for a review should be submitted
- That any application should set out the grounds on which it is being made and that, where appropriate, reference to how the student's SEN are considered to be relevant to the exclusion
- That, regardless of whether the excluded student has recognised SEN, parents have a right to require the academy trust to appoint an SEN expert to attend the review
- 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 exclusion has occurred as a result of 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. A 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

## **7. An independent review**

If parents apply for an independent review, the academy trust will arrange for an independent panel to review the decision of the governing board not to reinstate a permanently excluded student.

Applications for an independent review must be made within 15 school days of notice being given to the parents by Exclusion Panel of its decision to not reinstate a student.

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 school governors category and 2 members will come from the Head Teacher category.

- A lay member to chair the panel who has not worked in any school in a paid capacity, disregarding any experience as a school governor or volunteer
- School 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 headteachers during this time
- Head Teachers or individuals who have been a Head Teacher within the last 5 years

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

- Are a director of the academy trust, or trust board of the excluding school

- Are the Head Teacher of the excluding school, or have held this position in the last 5 years
- Are an employee of the academy trust, or the governing board, of the excluding school (unless they are employed as a Head Teacher at another school)
- Have, or at any time have had, any connection with the academy trust, school, trust board, 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 (see appendix 3 for what training must cover)

A clerk will be appointed to the panel.

The independent panel will decide one of the following:

- Uphold the governing board's decision
- Recommend that the governing board reconsiders reinstatement
- Quash the governing board's decision and direct that they reconsider reinstatement (only when the decision is judged to be flawed)

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

## **8. School registers**

A student's name will be removed from the school admissions register if:

- 15 school days have passed since the parents were notified of the exclusion panel's 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, the governing board will wait until that review has concluded before removing a student's name from the register.

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.

## **9. Returning from a fixed-term exclusion**

Following a fixed-term exclusion, a re-integration meeting will be held involving the student, parents, a member of senior staff and other staff, where appropriate.

The following measures may be implemented and changed from time to time when a student returns from a fixed-term exclusion; the measuring will support reintegration and will be developed on an individual student basis:

- Agreeing a behaviour contract
- Agreeing a safety plan
- Putting a student 'on report'
- A Values Programme placement (in school)
- A placement at another school (i.e. school-to-school placement - see the behaviour for learning policy)

## 10. Monitoring arrangements

**Mr Jones, Deputy Head Teacher**, monitors the number of exclusions every term and reports back to the Head Teacher and trust board. They also liaise with the local authority to ensure suitable full-time education for excluded students.

This policy will be reviewed by **the Head Teacher every 2 years**. At every review, the policy will be approved by the Students, Parents and Community Committee.

### 10. Links to other Policies

The exclusion policy refers to and is in accordance with the following areas of School policy:

- Anti-bullying
- Behaviour for Learning,
- Drugs Education
- School-Related Weapons or Potential Weapons Incidents Protocol (AfC - Richmond LA)
- SEN policy and information report

## Appendix 1 Fixed-term Exclusion

A decision to exclude a student for a fixed-term may be taken in response to breaches of the school's behaviour.

Examples of behaviour that may lead to a fixed-term exclusion include the following:

- Bullying
- Damage (includes damage to school or personal property belonging to any member of the school community)
- Drug and alcohol-related
- Persistent disruptive behaviour contrary to acceptable behaviour outlined in the Behaviour Policy
- Physical assault against an adult
- Physical assault against a student
- Racist abuse
- Sexual misconduct
- Theft
- Verbal abuse/threatening behaviour against staff (incl. Carrying an offensive weapon<sup>1</sup> or a banned item (see Behaviour for learning Policy))
- Verbal abuse/threatening behaviour against of students (Carrying an offensive weapon<sup>2</sup> or a banned item (see Behaviour for learning Policy))
- Other

Exclusion Reason <sup>3</sup>	Description
<b>Bullying</b>	<ul style="list-style-type: none"> <li>● Verbal</li> <li>● Physical</li> <li>● Homophobic bullying</li> <li>● Cyberbullying</li> </ul>
<b>Damage</b> (includes damage to school or personal property belonging to any member of the school community)	<ul style="list-style-type: none"> <li>● Arson</li> <li>● Graffiti</li> <li>● Vandalism</li> </ul>
<b>Drug and alcohol-related</b>	<ul style="list-style-type: none"> <li>● Alcohol abuse</li> <li>● Drug dealing</li> <li>● Inappropriate use of prescribed drugs</li> <li>● Possession of illegal drugs</li> <li>● Smoking</li> <li>● Substance abuse</li> </ul>
<b>Persistent disruptive behaviour</b>	<ul style="list-style-type: none"> <li>● Challenging behaviour</li> <li>● Disobedience</li> <li>● Persistent violation of school rules</li> </ul>
<b>Physical assault against an adult</b>	<ul style="list-style-type: none"> <li>● Fighting</li> <li>● Obstruction and jostling</li> <li>● Violent behaviour</li> <li>● Wounding</li> </ul>

<sup>1</sup> A weapon is defined as any item made or adapted for causing injury

<sup>2</sup> A weapon is defined as any item made or adapted for causing injury

<sup>3</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/642577/Guide-to-exclusion-statistics-05092017.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/642577/Guide-to-exclusion-statistics-05092017.pdf)

<b>Racist abuse</b>	<ul style="list-style-type: none"> <li>● Derogatory racist statements</li> <li>● Racist bullying</li> <li>● Racist graffiti</li> <li>● Racist taunting and harassment</li> <li>● Swearing that can be attributed to racist characteristics</li> </ul>
<b>Sexual misconduct</b>	<ul style="list-style-type: none"> <li>● Lewd behaviour</li> <li>● Sexual abuse</li> <li>● Sexual assault</li> <li>● Sexual bullying</li> <li>● Sexual graffiti</li> <li>● Sexual harassment</li> </ul>
<b>Theft</b>	<ul style="list-style-type: none"> <li>● Selling and dealing in stolen property</li> <li>● Stealing from local shops on a school outing</li> <li>● Stealing personal property (adult or pupil)</li> <li>● Stealing school property</li> </ul>
<b>Verbal abuse/threatening behaviour against an adult</b>	<ul style="list-style-type: none"> <li>● Aggressive behaviour</li> <li>● Carrying an offensive weapon</li> <li>● Homophobic abuse and harassment</li> <li>● Swearing</li> <li>● Threatened violence</li> <li>● Verbal intimidation</li> </ul>
<b>Verbal abuse/threatening behaviour against a pupil</b>	<ul style="list-style-type: none"> <li>● Aggressive behaviour</li> <li>● Carrying an offensive weapon</li> <li>● Homophobic abuse and harassment</li> <li>● Swearing</li> <li>● Threatened violence</li> <li>● Verbal intimidation</li> </ul>

This is not an exhaustive list and there may be other examples of behaviour where the Head Teacher judges that exclusion is an appropriate sanction.

The Head Teacher may exclude a student for one or more fixed periods which do not exceed a total of 45 school days in any one school year.

During a fixed term exclusion of 5 or fewer days, work will be set by the School for the student to complete at home. This work should be returned completed at the end of the exclusion for marking. This work is ordinarily issued and returned using Google-Classroom.

For an exclusion of longer than 5 days, the School will arrange full-time educational provision from the sixth day of exclusion.

Before the end of any fixed-term exclusion, parents will be invited to attend a reintegration meeting at the School with their child. The purpose of the meeting is to ensure that the child 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 support the student, including referrals to external agencies. The student will also spend a period of time on report to support their reintegration.

During the first five days of any exclusion, the parents of an excluded student must ensure that they are not present in a public place during normal school hours without reasonable justification, whether with or without a parent. A failure to comply with this is an offence for which a fixed penalty notice can be issued by the Local Authority.

There may be circumstances where the investigation of a serious incident may not be immediately possible due to the complexity of the incident or the need to gather statements from a number of witnesses. In such cases, the Head Teacher may issue a fixed-term exclusion of up to five days in order to allow an investigation to take place and to give the opportunity to make a reasoned decision.

This is used in circumstances where the incident may result in permanent exclusion. In such cases, the fixed-term exclusion is not a sanction for the incident under investigation. Once the investigation is complete, the Head Teacher will make the decision for the student to return to school, or to extend the fixed-term exclusion, or to make the exclusion permanent.

In exceptional cases, usually where further evidence which was not available at the time of the initial investigation is discovered, a fixed-term exclusion may be extended or converted into a permanent exclusion. Similarly, the Head Teacher may choose to withdraw an exclusion on the basis of new evidence.

## **Appendix 2 Permanent Exclusion**

Permanent exclusion is an extremely rare sanction at the School and always avoided where possible.

The decision to permanently exclude is taken only:

- a) in response to serious breaches of the School behaviour for learning policy and
- b) if allowing the student to remain at the School would seriously harm the education or welfare of the student or others at the School

A student may be permanently excluded where there have been repeated breaches of the behaviour policy for which a range of consequences and strategies have been applied without success. It is an acknowledgement that the School has exhausted all available strategies for dealing with the student and is a last resort.

There may be exceptional circumstances where, in the judgement of the Head Teacher, it is appropriate to permanently exclude a student for a first or 'one off' offence. These might include:

- a) serious actual or threatened violence against another student or member of staff
- b) sexual abuse or assault
- c) having an offensive weapon in school
- d) possession of any illegal drugs in school
- e) supply or intent to supply illegal drugs in or out of school

The School operates a 'zero tolerance' approach to the carrying of offensive weapons due to the seriousness of their impact on the School community. This is communicated clearly to students throughout the curriculum and the home-school agreement.

The Head Teacher will meet with the parents and student before reaching a decision to permanently exclude a student. Under normal circumstances, a student will be excluded for a fixed-term period in order to allow an investigation to take place before the decision is made to permanently exclude.

### **Appendix 3 Independent review panel training**

The academy trust must ensure that all members of an independent 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 exclusions, 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 headteachers, governing boards 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