



# Exclusion policy

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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 pupils
- › Pupils in school are safe and happy
- › Pupils 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

This policy complies with our funding agreement and articles of association.

### 3. The decision to exclude

Only the headteacher, or acting headteacher, can exclude a pupil 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 pupil will be taken only:

- In response to serious or persistent breaches of the school's behaviour policy, **and**
- If allowing the pupil to remain in school would seriously harm the education or welfare of others

Before deciding whether to exclude a pupil, either permanently or for a fixed period, the headteacher will:

- Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked
- Allow the pupil to give their version of events
- Consider if the pupil 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

### 5.1 The headteacher

#### Informing parents

The headteacher will immediately provide the following information, in writing, to the parents of an excluded pupil:

- 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 governing board and how the pupil 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 pupil, 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 headteacher 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 pupil 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 headteacher will immediately notify the governing 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 pupil
- › Exclusions which would result in the pupil being excluded for more than 5 school days (or more than 10 lunchtimes) in a term
- › Exclusions which would result in the pupil missing a public examination

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

For all other exclusions, the headteacher will notify the governing board and LA once a term.

## **5.2 The governing board**

Responsibilities regarding exclusions are delegated to Safeguarding Committee of the GB – this can be smaller than 3 governors.

The Safeguarding Committee of the GB has a duty to consider the reinstatement of an excluded pupil (see section 6).

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

Within 14 days of receipt of a request, the governing 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 governing board Wandsworth Local Authority will arrange suitable full-time education for the pupil. This provision will begin no later than the sixth day of the exclusion.

## **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 pupil**

The Safeguarding Committee of the GB will consider the reinstatement of an excluded pupil 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 pupil's total number of school days of exclusion to more than 15 in a term
- › It would result in a pupil missing a public examination or national curriculum test

If requested to do so by parents Safeguarding Committee of the GB will consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion if the pupil 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 pupil missing a public examination, Safeguarding Committee of the GB will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the Safeguarding Committee of the GB will consider the exclusion and decide whether or not to reinstate the pupil.

Safeguarding Committee of the GB can either:

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

In reaching a decision, Safeguarding Committee of the GB will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the headteacher 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 pupil's educational record.

Safeguarding Committee of the GB 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, Safeguarding Committee of the GB's 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 pupil's SEN are considered to be relevant to the exclusion
  - That, regardless of whether the excluded pupil has recognised SEN, parents have a right to require the local authority or the 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 the LA or the trust will arrange for an independent panel to review the decision of the governing board not to reinstate a permanently excluded pupil.

Applications for an independent review must be made within 15 school days of notice being given to the parents by Safeguarding Committee of the GB of its decision to not reinstate a pupil.

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 headteacher 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
- Headteachers or individuals who have been a headteacher within the last 5 years

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

- Are member/director of the LA/academy trust, or governing board of the excluding school
- Are the headteacher of the excluding school, or have held this position in the last 5 years
- Are an employee of the LA/academy trust, or the governing board, of the excluding school (unless they are employed as a headteacher at another school)
- Have, or at any time have had, any connection with the LA/academy trust, school, governing board, parents or pupil, 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 1 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 pupil'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 pupil 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 pupil's name from the register.

Where alternative provision has been made for an excluded pupil and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.

Where excluded pupils 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 pupil, parents, a member of senior staff and other staff, where appropriate.

The following measures may be implemented when a pupil returns from a fixed-term exclusion:

The points below are suggestions only and should be adapted to your school's specific circumstances.

- Agreeing a behaviour contract
- Putting a pupil 'on report'
- Internal isolation

## **10. Monitoring arrangements**

Marta Correia, Principal and Lucy Mathieson, Assistant Headteacher monitor the number of exclusions every term and reports back to the Safeguarding Committee of the GB via Headteacher report. They also liaise with the local authority to ensure suitable full-time education for excluded pupils.

This policy will be reviewed by Marta Correia every year. At every review, the policy will be approved by/shared with Safeguarding Committee of the GB

## **11. Links with other policies**

This exclusions policy is linked to our

- Behaviour policy
- SEN policy and information report

## Appendix 1: Independent review panel training

The LA/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

## 12. Summary including September 2022 updates:

### When can we exclude a pupil?

#### You can only exclude a pupil on disciplinary grounds

The behaviour incident will usually have happened inside school, but you can also exclude pupils for behaviour outside school (e.g. when in uniform, or when the behaviour may bring the school into disrepute), if it's in line with your school's behaviour policy.

There's no set time limit on how long after an incident you can exclude a pupil.

You **cannot** exclude a pupil due to:

- The actions of the pupil's parents
- The pupil having additional needs or a disability that the school feels unable to meet
- Poor academic ability or attainment (though a pupil who repeatedly disobeys their teachers' academic instructions could be subject to exclusion)
- The pupil failing to meet specific conditions before being reinstated, such as failing to attend a reintegration meeting

#### 'Informal' or 'unofficial' exclusions are unlawful

You must formally record all exclusions, even if they only happen for a short period of time. This means that 'informal' exclusions, like sending a pupil home to 'cool off', still count as a formal exclusion.

'Internal exclusions', e.g. sending a pupil to work in an isolation unit for disciplinary reasons, is **not** part of the statutory exclusions framework. This is because it removes the pupil from class and not from the school site.



## What the headteacher must consider before excluding a pupil

You must be sure that the decision to exclude is 'lawful, reasonable and fair'. Only your headteacher (or acting head) can make the decision to exclude a pupil.

Ask:

- **Are we excluding the pupil on disciplinary grounds?** As mentioned above, it's unlawful to exclude them for non-disciplinary reasons
- **How have we established the facts and how likely are they to be true?** You must apply the 'civil standard of proof' when doing this - this means that if something is more likely to have happened than not, you should accept that it did happen
- **Have we met our responsibilities under the Equality Act 2010, including the public sector equality duty?** You must not discriminate against pupils because of their sex, race, disability, religion or belief, sexual orientation, pregnancy/maternity or gender reassignment - see our [summary article](#) for more information on your obligations
- **Are there external factors that may have contributed to the behaviour incident?** For example, the pupil may have suffered a bereavement or been subject to bullying
- **Is the pupil part of a group with disproportionately high exclusion rates?** (See below for a list of pupil groups). If so, you should consider early interventions and extra support for the pupil before excluding them (more on this below)

Where practical, give the pupil an opportunity to present their case before you decide to exclude them.

## Pupils who require special consideration

Certain groups of pupils are more likely to be excluded than others. These include:

- Pupils with special educational needs (SEN)
- Children who qualify for free school meals
- Looked-after children
- Children from certain ethnic groups, such as Gypsy/Roma, travellers of Irish heritage, and Caribbean pupils

### For these pupils, you should:

- Intervene early to identify and address the pupil's specific needs
- Consider any extra support required from professionals - for example, you may need support to engage families from traveller communities
- Document all attempts at intervention - Ofsted inspectors may look at this evidence if they're exploring the possibility of [off-rolling](#) in your school

Pupils with education, health and care (EHC) plans and looked-after children are also **more vulnerable to the impacts** of exclusion. For these pupils, you should:

- Engage proactively with parents, social workers, foster carers, and the local authority to find out how you can support the pupil
- Consider additional support or an alternate placement
- Avoid permanently excluding them (read more about permanent exclusions below) - document all attempts at intervention to evidence exclusion is the last resort

For pupils with EHC plans, you should also consider requesting an early annual review or interim/emergency review.

### **Suspension (fixed-term exclusion) or permanent exclusion?**

The 2 types of exclusions are:

➤ Suspensions (fixed-term exclusions) :

A pupil can be excluded for 1 or more fixed periods, up to a **maximum of 45 school days** in a school year - it doesn't have to be a continuous period.

Suspensions (fixed-term exclusions) can also be for parts of the school day, such as a lunchtime exclusion. A lunchtime exclusion is counted as half a school day for statistical purposes.

You **cannot** extend a suspension or convert a suspension into a permanent exclusion. However, you can issue a further suspension or a permanent exclusion to begin immediately after the end of the first fixed period. This usually happens in 'exceptional cases', where further evidence has come to light.

➤ Permanent exclusions

You should only use this as a last resort, and only if both of the following conditions are met:

1. It's in response to a serious breach, or persistent breaches, of the school's behaviour policy; **and**
2. Where a pupil's behaviour means that allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school

### **You must notify parents, governors and the LA**

You must notify parents **without delay** if their child has been excluded. You must also consider your legal duty of care when sending the pupil home.

Learn more about notifying parents, governors and the LA [here](#).