



# Exclusions Policy

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**Review Period:** Every 3 years

**Staff Responsibility:** Stephen Houlton-Allen

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Changes Since the Last Version:	
Section	Details of change
All sections	Removal of the DSL postholder in the accountability of informing parents, the LA and staff

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### 1. Aims

#### 2. Our federation 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)

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.

### 3. 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 students:

- Section 52 of the Education Act 2002, as amended by the Education Act 2011
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- Sections 64-68 of the School Standards and Framework Act 1998

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 students
- 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](#)

## 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. There are two types of exclusion: suspension (fixed term) and permanent.

### Suspension (Fixed Term Exclusion)

A suspension will be used for the shortest time necessary to secure benefits without adverse educational consequences. There is a limit of 45 school days in an academic year for suspensions.

Exclusion for a period of time from half a day to 5 days for persistent or cumulative problems would be imposed only when the school had already offered and implemented a range of support and management strategies. These could include:

- Discussion with the student
- Mentoring (adult support)
- Discussion with parents
- Setting targets and agreeing an individual action plan
- Checking on any possible triggers
- Counselling
- Alternative internal arrangements
- Multi-agency support

Exclusion will not be used for minor incidents (e.g. lateness, poor academic performance or breaches of uniform rules).

## 4. The decision to exclude

A decision to exclude a student, either for a fixed period of suspension or permanently, is seen as a last resort by the federation while always bearing in mind our duty of care to all students and staff.

The federation is responsible for communicating to students, parents and staff its expectations of standards of conduct. A range of policies and procedures are in place to promote good behaviour and appropriate conduct, most notably, the *Behaviour for Learning* policy.

The schools will take account of any special educational needs when considering whether or not to exclude a student. The Executive Head and Heads of School will ensure that reasonable steps have been taken by the schools to respond to a

student's disability so the student is not treated less favourably for reasons related to the disability. Reasonable steps will include:

- Differentiation in the federation's Behaviour for Learning Policy
- Developing strategies to prevent the student's antisocial behaviour
- Requesting external help with the student
- Staff training

Where reasonable adjustments to policies and practices have been made to accommodate a student's needs and to avoid the necessity for exclusion as far as possible, exclusion may be justified, if there is a material and substantial reason for it. A specific incident affecting order and discipline in the school may be such a reason.

No exclusion will be initiated without having first exhausted other strategies or, in the case of a serious single incident, a thorough investigation.

Reasons for exclusion:

- In response to serious or persistent breaches of the federation's Behaviour for Learning policy, **and**
- If allowing the student to remain in school would seriously harm the education or welfare of others.

Student's behaviour outside school on school trips and sporting events is subject to the federation's Behaviour for Learning policy. Antisocial behaviour in such circumstances will be dealt with as if it had taken place in school.

Any exclusion will be at the recommendation of the Executive Head in conjunction with the Heads of School and the discretion of the Governors.

## **5. Roles and responsibilities**

### **5.1. The Executive Head and Head of School**

#### **Informing parents**

The Executive Head or Head of School 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 governing body and how the student may be involved in this
- Where there is a legal requirement for the governing body 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 Executive Head or Head of School 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 Executive Head will immediately notify the governing board and the local authority (LA) of:

- A permanent exclusion
- 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 Executive Head or Heads of School will also immediately inform the student's 'home authority' of the exclusion and the reason(s) for it without delay.

## **5.2. The governing body**

Responsibilities regarding exclusions is delegated to a panel of governors consisting of at least 3 governors. The governing body has a duty to consider the reinstatement of an excluded student (see section 7).

The governing board has a duty to consider the reinstatement of an excluded student (see section 7) within 14 days of receipt of a request, the governing board will provide the secretary of state and the Local Authority with information about any exclusions in the last 12 months.

For a fixed-period exclusion of more than 5 school days, the federation will arrange suitable full-time education for the student. 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 Local Authority**

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

## **6. Returning from a suspension**

- Following a suspension - a fixed-term exclusion, a re-integration meeting will usually be held involving the student, parents and the Head of School and/or Designated Safeguarding Lead where appropriate.

The following measures may be implemented when a pupil returns from a suspension;

- The student may spend all or some of their first day back with intervention staff (The Hive / 9¾) to give the student the best possible chance at a successful first day back at school; 'resetting' with discussion and academic learning in a space other than the child's usual classroom
- Break and Lunch times may be adapted with prosocial, constructive break activities

## 7. Considering the reinstatement of a student

The governing body 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

If requested to do so by parents, the governing body 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, the governing body will consider the reinstatement of the student before the date of the examination. If this is not practicable, the chair of the governing body (or the vice-chair where the chair is unable to make this consideration) will consider the exclusion independently and decide whether or not to reinstate the student.

The governing body 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 governing body will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the Executive Head and Heads of School 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.

The governing body will notify, in writing, the Executive Head and Head of School, parents and the Local Authority of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the governing body'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 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 Local Authority 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.

## **8. An independent review**

If parents apply for an independent review, the Local Authority will arrange for an independent panel to review the decision of the governing body 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 the governing body 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 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 a member of the Local Authority 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 Local Authority or the governing body, 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 Local Authority, 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 section 8.1.)

A clerk will be appointed to the panel.

The independent panel will decide one of the following:

- Uphold the governing body's decision
- Recommend that the governing body reconsiders reinstatement
- Quash the governing body'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.

### **8.1. Independent review panel training**

The Local Authority 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

## **9. 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
- In such cases, the SN Team will be informed to remove the child from the school's roll

Where an application for an independent review has been made, the governing body 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 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.

## **10. Monitoring arrangements**

The Designated Safeguarding Lead monitors the number of exclusions every term and reports back to the Executive Head, Heads of School and governing body. They also liaise with the Local Authority to ensure suitable full-time education for excluded pupils.

This policy will be reviewed by the Designated Safeguarding Lead every 3 years. At every review, the policy will be shared with the governing board.

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

This exclusions policy is linked to our Behaviour for Learning policy