



# Exclusion Policy

September 2017

## 1. Scope

- 1.1. This policy provides an overview of the practices which inform our academy's use of exclusion as a sanction. It is underpinned by the shared commitment of all members of the academy community to achieve the following two important aims:
  - (a) To ensure the safety and well-being of all members of the academy community and to maintain an appropriate educational environment in which all can learn and succeed
  - (b) To avoid exclusions unless considered absolutely necessary
- 1.2. There is a strong emphasis at the academy on the implementation of a **positive behaviour policy** that ensures we have a range of strategies to promote positive behavior which incorporate anti-bullying and a clearly written code for behaviour.
- 1.3. This policy applies to all pupils attending both our primary and secondary academies and is based upon statutory guidance from the DfE entitled [Exclusion from maintained schools, academies and pupil referral units in England](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/612222/Exclusion_from_maintained_schools_academies_and_pupil_referral_units_in_England.pdf) available on the [www.gov.uk](https://www.gov.uk) website.

## 2. Key principles

- 2.1. The Headteacher, the Governing Body and the Trustees must have regard to any statutory requirements.
- 2.2. The Academy recognises that an exclusion is a serious matter and has the potential to affect the pupil's life in a significant way.
- 2.3. Decisions, with respect to exclusions, must not be taken lightly but only after careful consideration of the circumstances. Pupils will only be excluded after all the relevant factors have been considered and when the Headteacher is satisfied that there is no alternative.
- 2.4. The nature of the period of exclusion shall be proportionate having regard to the incident and other circumstances leading up to it.
- 2.5. The Headteacher must ensure that:
  - (a) A thorough investigation has been carried out;
  - (b) That the evidence has been considered

The standard of proof used to decide whether a fact is true is that the decision-maker(s) should accept that something happened if, on the balance of probability, it is more likely that it did happen than it did not happen;

- (c) Statements have been taken from witnesses (where appropriate);
- (d) The pupil(s) in question had the opportunity to give his / her version of events.
- (e) Consider if the pupil as a Special Educational Need (SEN)

### **3. Fixed term and permanent exclusion rationale**

- 3.1. Fixed term and permanent exclusions are used when other strategies and sanctions have not been effective over time or when there has been a single clear and serious breach of discipline.
- 3.2. Fixed-term exclusions cannot exceed, when aggregated, a total of 45 academy days in any one academic year. (Lunchtime exclusions are counted as one half day)
- 3.3. The academy will not 'extend' a fixed-term exclusion. Instead a further, but separate fixed term exclusion will be issued to run concurrently.
- 3.4. The academy will not convert a fixed-term exclusion into a permanent exclusion. Instead a separate permanent exclusion will be issued
- 3.5. If a pupil is excluded for either an additional fixed period or subsequently permanently excluded, the Headteacher will inform parents without delay and issue a new exclusion notice to parents
- 3.6. 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
- 3.7. A permanent exclusion will not be imposed instantly unless there is an immediate threat to the safety of others or the pupil concerned.
- 3.8. A serious offence could, by itself, justify a pupil's exclusion and there may be other situations where the Headteacher makes the decision that exclusion is an appropriate sanction. This may include, but is not limited to, an aspect of any of the following:
  - Physical abuse towards an adult or child
  - Verbal abuse / offensive language towards an adult or child
  - Bullying
  - Frequent high level disruption to lessons
  - Frequent high level of non-compliance
  - Frequent high levels of disrespect to adults who work in the academy

- Unacceptable behaviour for which intervention and support has not been successful in modifying over time
- Breach of positive behaviour policy
- Actions which bring an academy into disrepute (The behavior of a pupil outside school can be considered grounds for an exclusion).
- Damage to property
- Theft
- Carrying an offensive weapon
- Arson

Should a serious incident occur in the absence of the Headteacher, the matter may be referred to the Chief Executive Officer so that they may make a decision.

#### **4. The exclusion process**

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

##### **Notifying the parents**

- 4.2. 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 body and how the pupil may be involved in this
  - 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
- 4.3. Parents are informed without delay and at least by the end of the afternoon session of the day their child is excluded that for the first 5 school days of an exclusion or until the start date of any provision (whichever is the sooner), the times when their child is not allowed to appear in a public place during their exclusion.

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.

4.4. If alternative provision is being arranged, the following information will also 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

4.5. Where the information about an alternative provision is not reasonably ascertainable by the end of the afternoon session, it may be provided in a subsequent notice but 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.

4.6. On a child's return to the academy following a fixed term exclusion, the parent(s) are asked to accompany their child to meet with the Headteacher or a senior member of staff.

### **Notifying the governing body and local authority**

4.7. The headteacher will immediately notify the governing body and the local authority of:-

- An exclusion which would result in a pupil being excluded for more than 5 school days or more than 10 lunchtimes in a term.
- A permanent exclusion, including when a fixed-term exclusion is made permanent
- An exclusion which would result in the pupil missing a public examination

4.8. 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.

- 4.9. For all other exclusions, the headteacher will notify the governing board and LA once a term of any other exclusions not already notified (including the reason(s) for the exclusion and the duration of any fixed-term exclusion)

### **The role of the governing body**

- 4.10. The governing body has a duty to consider the reinstatement of an excluded pupil and will delegate this function to a panel of no more than three governors. Governors from other Trust academies may be asked to help form this panel. (See section 5)
- 4.11. For a fixed-term exclusion for more than 5 cumulative school days, the governing body will ensure suitable full-time education for any pupil of statutory school age has been arranged by liaising with the chief executive officer as appropriate.  
Provision does not have to be arranged for pupils in the final year of compulsory education who do not have any further public examinations to sit.
- 4.12. Should the Secretary of State request information about any exclusions in the last 12 months, the governing body of the academy must respond within 14 days of receipt of the request.

### **The role of the local authority**

- 4.13. 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 and, where the pupil has an Education, Health and Care Plan, may need to review or reassess the pupils' needs with a view to working with the parents to identify a new placement.

## **5. Considering the reinstatement of a pupil**

- 5.2. A panel of governors 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

Where an exclusion would result in a pupil missing a public examination, the panel of governors will make reasonable efforts to consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the Chair of the governing body may consider a pupils' reinstatement alone.

- 5.3. If the pupil would be excluded for more than 5 but less than 15 school days in a single term, a panel of governors will consider the reinstatement of an excluded pupil

within 50 school days of receiving notice of the exclusion only if requested to do so by the parents.

5.4. The panel of governors can either:-

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

5.5. In reaching their decision the panel of governors will consider whether the exclusion was lawful, reasonable, procedurally fair and whether the headteacher followed their legal duties.

5.6. As well as considering any evidence presented in relation to the decision to exclude, the standard of proof used to decide whether a fact is true is that the decision-maker(s) should accept that something happened if, on the balance of probability, it is more likely that it did happen than it did not happen;

5.7. Minutes of the meeting will be taken and a record of any documents or evidence considered will be kept.

5.8. The outcome will be recorded on the pupil's educational record

5.9. The panel of governors will notify the headteacher, parents and local authority of its decision along with their reasons for that decision without delay

5.10. Where an exclusion is permanent, the panel of governors' decision will also include the following

- The fact that it is permanent
- Notice of parent's right to ask for the decision to be reviewed by an independent review panel
- 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 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

## 6. An independent review

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

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

6.4. A panel of either 3 or 5 members will be constituted with representatives from each of the three categories below.

Where a 5-member panel is constituted, 2 members will come from category 2 and members will come from category 3

- **Category 1**

An independent / 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)

- **Category 2**

Current or former 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)

- **Category 3**

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

6.5. A person may not serve as a member of the review panel if they-

- Are a member or director of the academy Trust or governing board of the excluding academy

- Are the headteacher of the excluding academy, or have held this position in the last 5 years
- Are an employee of the academy Trust or a member of the governing body of the excluding academy (unless they are employed as a headteacher at another school)
- Have, or at any time have had, any connection with the academy Trust, school, governing body, parents, 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 as stipulated by the DfE's [Exclusion from maintained schools, academies and pupil referral units in England](#) guidance within the last 2 years

6.6. A clerk will be appointed to the panel.

6.7. The independent panel will decide one of the following:

- Uphold the governing body'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)

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

6.9. The Independent Review Panel's decision and recommendations will be communicated to both the academy and the parents along with details of any further options available to them

## 7. School registers

7.1. A pupil's name will be removed from the school admission 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

7.2. Where an application for an independent review has been made, the governing body will wait for the conclusion of that review before removing a pupil from or updating the register with the appropriate code.