

Exclusion Policy 2019

This Policy applies to all academies within the Link Academy Trust.

Preface

New arrangements for school exclusion came into force in September 2012. These will apply to any pupil excluded on or after 1 September 2012 from a maintained school, academy school / Free School, alternative provision academy / Free School or pupil referral unit in England.

Revised regulations and guidance for those with legal responsibilities in relation to exclusion are now available.

Academies will also refer to Devon Virtual School for Children in Care Protocol for Eliminating Exclusions of Children in Care when considering whether a pupil should be excluded.

Overview

Under the new arrangements, the process for challenging a school's decision to exclude a pupil permanently will change. The current system of independent appeal panels will be replaced by independent review panels.

Where requested by a parent, an SEND expert will need to be appointed by the Academy Trust to advise the independent review panel.

The independent review panel will be able to uphold the decision to exclude a pupil permanently; recommend that the Local Board reconsider its decision; or direct the Local Board to reconsider its decision. A direction to reconsider will be limited to circumstances where a panel decides that the school has acted illegally, irrationally or where there are significant flaws in procedure.

Where a Local Board decides not to offer to reinstate a pupil following a direction from a panel to reconsider its decision, the panel will be expected to require an adjustment to a school's budget or payment of £4,000 towards the cost of alternative provision.

Where a parent alleges discrimination (under the Equality Act 2010) in relation to a fixed period or permanent exclusion, they will also be able to make a claim to the First-tier Tribunal (for disability discrimination) or a County Court (for other forms of discrimination). Academies will also refer to the Devon Virtual School for Children in Care Protocol for Eliminating Exclusions of Children in Care

Key responsibilities

Academy Heads

- Academy Heads' powers to exclude remain unchanged but there will be new statutory guidance on the use of these powers.

Local Boards

- Local Boards will perform the key role of determining whether an excluded pupil should be reinstated. This will involve reviewing the decision of the Academy Head and considering the outcome of any independent review panel hearing.

Academy Trusts

- Where requested by a parent, academy trusts will need to arrange an independent review panel to consider the decision of a Local Board to uphold a permanent exclusion.
- Panel members will need to be trained in how to perform their role.
- Academy Trusts will also need to appoint a special educational needs expert to advise the panel, where requested by a parent.

Reasons for exclusion/ rationale

Underpinning the policy is the need to ensure the safety and well-being of all members of the school community and to maintain a safe and happy environment in which all can learn and succeed. Schools within the Trust will try to reduce the need to use exclusion as a sanction.

The decision to exclude will be taken in the following circumstances:

- In response to a serious breach of the Trust's Behaviour Policy
- If allowing the pupil to remain in school would constitute a risk to the education and welfare of students or others in the school

Exclusion is an extreme sanction and will only be administered by the Academy Head, or in his/her absence by another senior colleague. Any permanent exclusion would be based upon a thorough investigation and consideration by the Academy Head. Any decision to exclude taken by the school must be made according to the principles of administrative law and it must be lawful, rational, reasonable and proportionate.

Exclusion, whether fixed term or permanent, may be used for any of the following examples of unacceptable conduct:

- Verbal abuse to staff and others
- Verbal abuse to students
- Physical abuse to/attack on staff
- Physical abuse to/attack on students
- Indecent behaviour
- Damage to property, including arson
- Misuse of illegal drugs or other substances
- Theft
- Serious actual or threatened violence against another student or member of staff
- Sexual abuse or assault
- Supplying an illegal drug
- Carrying an offensive weapon
- Unacceptable behaviour which has previously been reported and for which sanctions have been unsuccessful
- Persistent disruptive behaviour

This list is not exhaustive and there may be other cases where an Academy Head feels exclusion is justified.

Details of the Exclusion Process

What does exclusion mean?

This means that a child is not allowed to attend school. Exclusion is usually the result of a particularly serious incident or a series of incidents. The Academy Head must tell parents/carers in writing how long the exclusion is for and the reasons for it. As long as the exclusion lasts, the child concerned must not enter the school grounds or use school transport services and parents are responsible for supervising their child during school time. Parents should ensure that their child does not hang around the school gates, even to meet friends after school.

There are three types of exclusion.

- **Lunch time exclusions** - may not be more than 90 in a school year.
- **Fixed period exclusions** - last for a specific number of days but cannot be longer than 45 days in the school year.
- **Permanent exclusions** - means that a child may not be allowed to go back to the school again, unless they are reinstated by a meeting of the Local Board.

Unofficial - indefinite period or 'cooling off' periods of exclusion from school have no legal status. Schools must not use such sanctions and must follow the correct procedures as described in Improving *Behaviour and Attendance: guidance on exclusions from schools and pupil referral units* DCSF September 2008

Who can exclude a child from school?

Normally, only the Academy Head can exclude a pupil. However, if the Academy Head is absent from school, the matter should be referred to the Chief Executive Officer.

Who can parents talk to about a fixed period exclusion?

The Academy Head and the staff of the school should use the period of exclusion to plan for the successful reintegration of their child. It would be sensible for parents/ carers to discuss with the Academy Head what they can do to help. Help and advice can be obtained from the Inclusion and Reintegration Officer in a local area.

The school should hold a reintegration meeting, usually at the start of the first day back after exclusion, which the parent/carer should make every effort to attend and join in. A parent/carer's failure to attend a reintegration meeting will be one factor taken into account by a magistrates' court when deciding whether to impose a parenting order, if at any future date a parenting order has been applied for by the school or local authority. However, the Academy Head must allow a child to start back at school once the exclusion has finished even if the parent/carer is unable or does not want to attend the meeting.

What happens to a child's education during the exclusion?

During the exclusion, school staff must still set and mark work for the first five days. The Academy Head will explain the arrangements for collecting it and handing it in. If a child is due to sit a public exam, during the exclusion, this should not be affected. If the fixed period exclusion is for more than five days, the school or local authority must make arrangements for the pupil's full time education from the sixth day onwards.

If a child has been permanently excluded, the school is still responsible for setting and marking work for the first five days. Devon County Council has responsibility for providing full time education from the sixth day.

If a child is due shortly to sit public exams and the Academy Head considers that these should not be taken in the school from which he or she has been permanently excluded, it will be necessary to make alternative arrangements.

What are the entitlements of a parent or carer? Can they appeal against a child's exclusion?

There are a number of steps which the school has to take.

- The parent/carers must be informed immediately, ideally by telephone.
- Within one day, the Academy Head must inform the parent/carers by letter that their child has been excluded, the type of exclusion and the reasons for it. The letter should also state the date that the child can return to school and the time of the reintegration meeting.
- The Academy Head must notify Devon County Council and the Local Board, of the child's exclusion for any fixed period exclusion over five days or a permanent exclusion.
- The Academy Head's letter tells the parent/carers that they have the right to make representations to the Chair of the Local Board about the decision to exclude a child. If the parent/carers wishes to state their case to the Local Board, the Clerk to the Board has the discretion to arrange a meeting for fixed period exclusions up to five days and the parent/carers may be invited to attend.
- If the exclusion is for between 1 and 15 days and the parent/carers wishes to make representations to the Local Board, the Clerk must call a meeting.
- For fixed period exclusions between 5 and 15 days if the parent/carers wishes to make a representation to the Local Board, the Clerk must call a meeting between the sixth and fifteenth school day after the exclusion started.
- The parent/carers is entitled to receive a copy of any report which is provided to the Local Board at its meeting to consider the exclusion.
- The parent/carers has the right to have any letters, documents or reports to be translated into another language if needed.

What is the purpose of the Local Board meeting?

Who will attend?

The Local Board must decide at its meeting whether or not it agrees with the Academy Head's decision to exclude a child. If they do not agree, they must direct reinstatement – in other words, instruct the Academy Head to allow the child to return to school. If the exclusion is for fewer than five days in the term, the Local Board may only consider the parent/carers' views; it has no power to direct the school to reinstate. The parent/carers will be invited to attend the meeting, the Academy Head and a DCC representative will also be present. The parent/carers, or the school, may request a DCC representative attends the meeting. The parent/carers should make every effort to attend and may take along a friend or advocate. If a child has a statement of special educational needs or additional needs, the parent/carers may wish to get support from Devon Parent Partnership and can also send a written statement or other evidence for the Local Board to consider.

Can a child attend the meeting?

There are no hard and fast rules and the parent/carers' wishes will be taken into account by the Local Board. If the parent/carers feels that the child should also attend, this request should be made as soon as possible directly to the Clerk of the Board. The Board will normally allow the child to attend and to speak if it is requested.

What happens at the meeting?

The Academy Head's written report and any written statements or letters will be circulated before the meeting to everybody who will be attending.

At the meeting, the Chair of the Local Board (or delegated governor) will introduce everybody and invite the Academy Head to outline the reasons for excluding the child. The parent/carer will be able to ask questions of the Academy Head and of other witnesses who may give information at the meeting. After that, the parent/carer and child, if they attend, will be able to put their case. The parent/carer should be prepared to answer questions from the Academy Head and Local Board about their case.

The DCC representative will attend the meeting to give the Local Board guidance in general terms, for example, how other schools in the area have dealt with similar incidents. They can also draw the attention of the Board to issues where there is a lack of clarity or where more information may be needed or where guidance appears to have been ignored. They will not comment on the appropriateness of an individual exclusion.

When the Board has heard all the information, the parent/carer, the DCC representative and the Academy Head will be asked to sum up. The parent/carer will all be asked to withdraw while the Board makes its decision.

How will the parent/carer hear about the Board's decision?

Normally the decision will be made by the Local Board at the end of the meeting. The parent/carer will also receive a letter from the Clerk within one school day of the meeting, which sets out the decision and the reasons for it.

In the case of a permanent exclusion, a fixed period exclusion of more than five days, or any exclusion where the pupil loses the opportunity to take a public examination, the decision will state whether a child should be reinstated to the school. If the Board agrees that a child should be reinstated, the parent/carer will be told the date on which they can return to school. No conditions may be attached to this decision.

What happens if the Local Board decides not to reinstate the child after a permanent exclusion?

If the Local Board decides that a child should not return to school, the parent/carer has the right to appeal to the independent appeal panel from the Trust Board of Directors. If a parent/carer decides to appeal, they must do so within 15 school days of the date on which they receive the decision letter from the Local Board.

What happens if a child remains permanently excluded at the end of this procedure?

The child cannot return to the same school. The Inclusion and Reintegration Officer of Devon County Council will contact the parent/carer to discuss what should happen next and will explain the procedures for educating the child and work with the parent/carer to find an alternative placement.

This Policy is reviewed by the Board of Directors on a 2-yearly cycle.

Approved by the Board of Directors: 11 February 2019