



# Exclusion of Pupils Policy

---

This policy will describe the exclusion process in order to establish a fair and consistent approach in line with legislation and statutory guidance and our inclusive ethos.

---

- Minuted and adopted by FGB Committee on October 2019.

**Author: B Walton**

**Re- Written: September 2019**

**Review date: July 2022**

## Contents

1. Aims .....	<b>Error! Bookmark not defined.</b>
2. Legislation and statutory guidance .....	<b>Error! Bookmark not defined.</b>
3. The decision to exclude .....	<b>Error! Bookmark not defined.-5</b>
4. Definition .....	5
5. Roles and responsibilities .....	5-6
6. Considering the reinstatement of a pupil.....	6-8
7. An independent review .....	8
8. School registers .....	9
9. Returning from a fixed-term exclusion.....	9
10. Monitoring arrangements .....	9
11. Links with other policies .....	9

## 1. Aims

Within the Exclusion policy we aim to ensure that we:

- create a culture of exceptionally good behaviour: for learning, for community and for life
- ensure that everyone is treated fairly, shown respect and good relationships are promoted
- help learners take control over their behaviour and be responsible for the impact of their actions
- build a community which values kindness, care, good humour, good temper, obedience and empathy for others
- apply the exclusions process fairly and consistently;
- support governors, staff, parents and pupils to understand the exclusion process
- enable pupils in school to be safe and happy;

## 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
- 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 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

Exclusion may be used for any of the following reasons, all of which constitute examples of unacceptable conduct and are infringements of the Academy's Positive Behaviour Policy:

- Physical assault against pupils (includes fighting, violent behaviour or wounding)
- Physical assault against adult (includes violent behaviour or wounding)
- Verbal abuse/threatening behaviour against pupils (includes threatened violence, aggressive behaviour, swearing, homophobic abuse and harassment, verbal intimidation, carrying an offensive weapon)
- Verbal abuse/threatening behaviour against adult (includes threatened violence, aggressive behaviour, swearing, homophobic abuse and harassment, verbal intimidation, carrying an offensive weapon);
- Bullying (includes verbal, physical, homophobic bullying, racist bullying)
- Racist abuse (includes racist taunting and harassment, derogatory racist statements, swearing that can be attributed to racist characteristics, racist bullying, racist graffiti)
- Sexual misconduct (includes sexual abuse, sexual assault, sexual harassment, lewd behaviour, sexual bullying, sexual graffiti)
- Drug and alcohol related (includes possession of illegal drugs, inappropriate use of prescribed drugs, drug dealing, smoking, alcohol abuse, substance abuse);
- Damage (includes damage to Academy or personal property belonging to any member of the Academy community, vandalism, arson, graffiti);
- Theft (includes, stealing Academy property, stealing personal property (pupil or adult), stealing from local shops on an Academy outing, selling and dealing in stolen property);
- Persistent disruptive behaviour (includes challenging behaviour, disobedience, persistent violation of Academy rules)

This is not an exhaustive list and there may be other situations where the headteacher makes the judgment that exclusion is an appropriate sanction.

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
- 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. Work will be set by the class teacher for the duration of the fixed-term exclusion and this will be marked in line with the Academy's marking policy.

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 made permanent
- 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 is delegated to the Exclusions Panel– this can be smaller than 3 governors. They have a duty to consider the reinstatement of an excluded pupil (see section 6).

## **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 Exclusions Panel 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

If requested to do so by parents, the Exclusions Panel 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, the Exclusions Panel will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the Exclusions Panel will consider the exclusion and decide whether or not to reinstate the pupil.

The Exclusions Panel can either:

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

In reaching a decision, the Exclusions Panel 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.

The Exclusions 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, the 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 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.

## **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 pupil.

Applications for an independent review must be made within 15 school days of notice being given to the parents by the Exclusion Panel 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 a Member of the 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 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 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

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:

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

## **10. Monitoring arrangements**

The Chair of the Specialist Education, Early Years and Safeguarding committee (SEYs) monitors the number of exclusions every term and reports back to the Full Governing Body. They also liaise with the local authority to ensure suitable full-time education for excluded pupils.

This policy will be reviewed by SEYs Committee 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 policy
- SEN policy and information report