



# Exclusions Policy

2021-22

A handwritten signature in black ink, appearing to be "A. Hill", is written over a horizontal line.

CEO SIGNATURE

n/a – delegated to CEO

CHAIR OF TRUST BOARD SIGNATURE

4.2.22

DATE

Annual or on updates

NEXT REVIEW DATE



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## 1. Aims

Our Trust aims to ensure that:

- The exclusions process is applied fairly and consistently
- The exclusions process is understood by Directors, 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](#)
- 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 (HT), or acting HT, can exclude a pupil from school. A permanent exclusion will be taken as a last resort.

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 HT 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; and
- 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 HT 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 Local Governing Board (LGB) (via the Pupil Discipline Committee (PDC)) and how the pupil may be involved in this; and
- [Where there is a legal requirement for the LGB (via the PDC) to meet to consider the reinstatement of a pupil] that parents have a right to attend the meeting, be represented at the meeting (at their own expense) and to bring a friend.

The HT 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; and
- 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 LGB and Local Authority (LA)

The HT will immediately notify the LGB and the 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; and
- 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 HT 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 HT will notify the LGB and LA once a term.

## **5.2 The Local Governing Board (LGB) and Pupil Discipline Committee (PDC)**

Responsibilities regarding exclusions is delegated to the PDC consisting of at least 3 Governors.

The LGB (via the PDC) has a duty to consider the reinstatement of an excluded pupil (see section 6).

Within 14 days of receipt of a request, the LGB (via the PDC) 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 LGB 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 PDC 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; and/or
- It would result in a pupil missing a public examination.

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

The PDC 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 PDC will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the HT 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 PDC will notify, in writing, the HT, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the PDC'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 SEND 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 Trust to appoint an SEND expert to attend the review;
  - Details of the role of the SEND expert and that there would be no cost to parents for this appointment;
  - That parents must make clear if they wish for an SEND expert to be appointed in any application for a review; and/or
  - 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 Trust will arrange for an independent panel to review the decision of the PDC 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 PDC of its decision to not reinstate a pupil.

A panel of 3 members will be constituted with representatives from each of the categories below:

- 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;
- A School Governor who has served as a Governor for at least 12 consecutive months in the last 5 years, provided they have not been a teacher or HT during this time; and
- A HT or individual who has been a HT within the last 5 years.



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

- Are a Member/Director of Trust, or Governor of the LGB of the excluding school or any schools in the Trust;
- Are the HT of the excluding school, or have held this position in the last 5 years;
- Are an employee of the Trust;
- Have, or at any time have had, any connection with the Trust, School, LGB, parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality; and/or
- 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 LGB's decision;
- Recommend that the LGB reconsiders reinstatement; or
- Quash the LGB'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 PDC'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 LGB 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

## **10. Monitoring arrangements**

The HT monitors the number of exclusions every term and reports back to the LGB via the HT Report. They also liaise with the LA to ensure suitable full-time education for excluded pupils.

This policy will be reviewed by the CEO every year and/or in line with national updates to the relevant legislation. At every review, the policy will be shared with the Trust Board and the LGBs.

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

This exclusions policy is linked to our

- Behaviour policies
- SEND policy and information report



### **Appendix 1: independent review panel training**

The 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 HTs, LGBs and the Panel under the [Equality Act 2010](#); and
- 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.



## **Appendix 2 – Changes to the exclusion process during the coronavirus (COVID-19) pandemic**

### **Statement of intent**

The school aims to act in accordance with the Exclusion Policy as much as possible; however, we understand that we must remain compliant with the relevant exclusion legislation while the school observes government guidelines during the coronavirus (COVID-19) pandemic. This appendix sets out what additional actions the school is taking.

The information in this appendix is under constant review and kept up-to-date to reflect any changes to national or local guidance.

### **1. Legal framework**

This appendix has due regard to the relevant statutory guidance, including, but not limited to, the following:

- The School Discipline (England) (Coronavirus) (Pupil Exclusions and Reviews) (Amendment) Regulations 2020
- DfE (2021) 'Changes to the school suspension and permanent exclusion process during the coronavirus (COVID-19) outbreak'

The policy is implemented in conjunction with the following school policies:

- Exclusion Policy

### **2. Application of arrangements**

All exclusions occurring between 25 September 2021 and 24 March 2022 (inclusive) are subject to amended arrangements with regards to:

- The use of remote access technology for meetings relating to exclusions.
- The deadline for applications for an independent review.
- Timescale amendments, under certain circumstances.

Meetings relating to exclusions occurring between 25 September 2021 and 24 March 2022 will take place within the normal timescales set out in the main body of this policy.

The deadline for applications for an independent review in relation to permanent exclusions occurring from 25 September 2021 has been reinstated to normal statutory exclusions, which is 15 school days from the date on which notice of the governing board's decision is given in writing to parents, or directly to the pupil if they are 18 or above.



The governing board and arranging authorities for independent review panels (IRPs) will meet the normal timescales for exclusions occurring after 25 September 2021. In doing this, they will:

- Consider the DfE's 'Schools COVID-19 operational guidance'.
- Facilitate remote access meetings where it is not reasonably practicable to meet in person.

If deadlines are missed due to the coronavirus pandemic, the meeting will be held as soon as it becomes reasonably practicable to meet either in person or via remote access.

Any exclusions covered by these arrangements will continue to be subject to them until the procedures for scrutiny of the exclusion have been exhausted. For the purpose of this appendix, an exclusion will be taken as having 'occurred' on the first day of the exclusion, not the date when the decision to exclude was made or communicated.

The deadline for applications for an independent review in relation to permanent exclusions occurring between 25 September 2020 and 24 September 2021 remains at the extended period of 25 school days.

### **3. Deciding whether a meeting should be held remotely**

For exclusions occurring between 25 September 2021 and 24 March 2022 (inclusive), meetings of the governing board or IRP will be held via remote access if:

- It is not reasonably practicable for the meeting to take place in person, within the usual timescales, due to coronavirus.
- The governing board (or arranging authority if the meeting is an IRP) is satisfied that:
  - All the participants agree to the use of remote access.
  - All the participants have access to the technology that will allow them to hear and speak throughout the meeting, and to see and be seen if a live video call is used.
  - All the participants will be able to put across their point of view or fulfil their function.
  - The meeting can be held fairly and transparently via remote access.

The governing board (or arranging authority if the meeting is an IRP) will be responsible for ensuring these conditions are met before a meeting takes place.

When determining whether it would be reasonably practicable to meet in person, the governing board or arranging authority will assess:

- The facts of the case.
- The circumstances in which a meeting could be expected to take place.
- The needs of the intended participants.
- The latest public health guidance.



### **Arranging a remote access meeting**

The governing board or arranging authority will explain the technology they propose to use to participants and will ensure that the participants, particularly pupils and their parents, know that they do not have to agree to a meeting being held via remote access.

Pupils and parents involved in meetings will be made aware that if they do not consent to a remote access meeting, the meeting is likely to be delayed. Where a parent or pupil has consented to a remote access meeting, all other participants will make reasonable efforts to accommodate that preference unless there is a clear reason not to.

The normal requirements for who must be invited to a meeting (as set out in the wider policy) remain in place; however, those who have no intention of taking part in the meeting will not be treated as 'participants' for the purpose of the arrangements in this appendix.

Governing boards, arranging authorities and panel members will comply with equalities legislation and recognise that some participants may find it difficult to participate in a remote access meeting, e.g. if they have SEND or EAL. The chair of the meeting will check that the participants understand the proceedings and can engage with them, to ensure the meeting is conducted fairly. Once the meeting starts, if it cannot proceed fairly (e.g. if a participant cannot access it), the meeting will be adjourned.

The use of remote access will not alter any other procedural requirements that apply during the meeting. As long as the conditions for a remote access meeting are met, it will be possible for some participants to attend a meeting in person and for others to join via remote access.

Though written representations will be considered, solely paper-based meetings will not be permitted.

To help meetings run smoothly and ensure they are accessible for participants, the governing board or the arranging authority will:

- Provide clear instructions to participants about how to join the meeting virtually, and distribute the relevant papers in a timely manner ahead of the meeting.
- Indicate a named person who participants can contact to discuss any questions they may have before the meeting.
- Ensure the chair is prepared to explain the agenda at the start of the meeting, and to provide clear guidance on how the meeting will be run.
- Consider holding a pre-meeting with participants to check that the available technology is suitable and that all participants understand how to access the meeting.
- Take reasonable steps to facilitate a parent or pupil's access to the technology required.
- Ensure governors, panel members, and other participants are supported to access the technology required for the meeting.



#### **4. Applications for independent reviews of exclusions**

Where the governing board declines to reinstate a pupil who has been permanently excluded, their parents (or the pupil if they are 18 or over) can apply for a review of this decision.

For exclusions covered under these arrangements, the deadline for applications has been reinstated to 15 school days from the date on which notice in writing of the governing board's decision was given to parents (or the pupil if they are aged 18 or over).

The school will wait for the period of 15 school days to pass without an application having been made before deleting the name of the permanently excluded pupil from the admissions register.

The deadline for applications for an independent review in relation to permanent exclusions occurring between 25 September 2020 and 24 September 2021 remains 25 school days from the date on which notice of the governing board's decision is given in writing to parents, or directly to the pupil if they are 18 or above.

#### **5. Meetings to consider permanent exclusions**

If it has not be reasonably practicable for a review panel to meet in person within 15 school days due to coronavirus and it has not been possible to hold a remote meeting, the arranging authority will arrange for overdue meetings to take place via remote access, if the conditions can be met, or in person as soon as it is safe and practicable to do so. If deadlines are missed because of coronavirus, the meeting will be held as soon as it becomes reasonably practicable to meet either in person or via remote access (respecting the conditions for such a meeting).

#### **6. Meetings to consider fixed-term exclusions**

If a pupil has received a fixed-term exclusion which results in them been excluded for 16 or more days in a term, the governing board will try to meet to review the exclusion within 15 school days.

If it has not be reasonably practicable for a review panel to meet in person within 15 school days due to coronavirus and it has not been possible to hold a remote meeting, the arranging authority will arrange for overdue meetings to take place via remote access, if the conditions can be met, or in person as soon as it is safe and practicable to do so. If deadlines are missed because of coronavirus, the meeting will be held as soon as it becomes reasonably practicable to meet either in person or via remote access (respecting the conditions for such a meeting).



If a pupil receives a fixed-term exclusion which results in them having been excluded for at least 6 school days in a term but not more than 15 school days in that term, and the parent (or pupil if they are 18 or over) chooses to make representations about the exclusion, the governing board will meet to discuss reinstatement within 50 school days.

If it has not been reasonably practicable for the governing board to meet in person within 50 school days due to coronavirus, the meeting will be held as soon as it becomes reasonably practicable to meet either in person or via remote access (respecting the conditions for such a meeting).

## **7. Monitoring and review**

The arrangements in this appendix will be reviewed when there are any changes to government guidance. Any changes to the arrangements in this appendix will be communicated to all stakeholders.