

Suspension and Permanent Exclusion Policy



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1. Aims

Good behaviour in schools is essential to ensure that all pupils benefit from the opportunities provided by education.

Our school aims to ensure that:

- The exclusions process is applied fairly and consistently
- The exclusions process is understood by 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

The headteacher legislation to which this guidance relates is:

- the Education Act 2002, as amended by the Education Act 2011;
- the School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012;
- the Education and Inspections Act 2006;
- the Education Act 1996; and
- 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.

The following guidance should be considered:

- [Behaviour in Schools guidance](#);
- [Keeping Children Safe in Education](#);
- [Mental health and behaviour in schools](#);
- [Understanding Your Data: a guide for school governors and academy trustees](#)

3. Factors to consider before making a decision to suspend

When the school's behaviour strategies have been employed, the pupil may need a time-limited intervention away from the school i.e. a managed move to either Alternative Provision or as a managed move.

The managed move could be to an Alternative Provision site with the following plan:

- the nature of the intervention
- objectives,
- timeline to achieve these objectives
- monitoring and review.

4. The decision to suspend or permanently exclude

Only the Headteacher, or acting Headteacher, can suspend or permanently exclude a pupil from school. A permanent exclusion will be taken as a last resort.

Our schools are 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 suspension and permanent exclusions procedures to ensure that every child receives an education in a safe and caring environment.

A decision to permanently 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 suspend or permanently exclude a pupil, 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).

6. Definition of Suspension

A suspension, where a pupil is temporarily removed from the school, is an essential behaviour management tool that should be set out within a school's behaviour policy.

A pupil may be suspended for one or more fixed periods¹⁴ (up to a maximum of 45 school days in a single academic year). A suspension does not have to be for a continuous period.

For the purposes of suspensions, 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.

7. Roles and responsibilities for suspension or permanent exclusions

The Headteacher

The Headteacher will immediately provide the following information, in writing, to the parents, and if applicable a social worker or Headteacher of Virtual School for Looked After Children of a suspension and permanently excluded pupil:

- the reason(s) for the suspension and permanent exclusion
- the length of a suspension 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
- guidance social worker or Headteacher of Virtual School for Looked After Children
- providing up-to-date links to sources of impartial advice to parents

- 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 suspended and that for the first 5 school days of suspension, 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 permanent 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.

For any permanent exclusion, headteachers should take reasonable steps to ensure that work is set and marked for pupils during the first five school days where the pupil will not be attending alternative provision.

Informing the Chair of the Interim Executive Board

The Headteacher will immediately notify the Chair of Interim Executive Board:

- A permanent exclusion
- Suspensions which would result in the pupil being excluded for more than 5 school days (or more than 10 lunchtimes) in a term
- Suspensions which would result in the pupil missing a public examination

For all other exclusions, the Headteacher will notify the Interim Executive Board at the full Interim Executive Board meetings.

The Interim Executive Board

The Interim Executive Board is legally required to consider reinstating a suspended or permanently excluded pupil, and must consider both the interests and circumstances of the suspended or permanently excluded pupil, and that of other pupils, staff, and school community.

Responsibilities regarding suspensions is delegated to Review Panel consisting of at least 3 governors. The Review Panel has a duty to consider the reinstatement of an excluded pupil. 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.

The Local Authority (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.

8. Considering the reinstatement of a pupil

The Review Panel will consider the reinstatement of a suspension pupil within 15 school days of receiving the notice of the exclusion if:

- the exclusion is permanent
- it is a suspension 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 Review Panel will consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the suspension if the pupil would be suspended from school for more than 5 school days, but less than 15, in a single term.

Where an suspension would result in a pupil missing a public examination, the Review Panel will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the panel will consider the suspension and decide whether or not to reinstate the pupil.

Exclusion Review 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 Review Panel will consider whether the suspension 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 Review Panel will notify, in writing, the headteacher, parents, the LA and Headteacher of Virtual School of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the Review 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, Looked After Children and Previously Looked After Children 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 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.

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.

9. An independent review – permanent exclusion

If parents apply for an independent review, the Trust or the LA will arrange for an independent panel to review the decision of the Interim Executive 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 independent panel of its decision to not reinstate a pupil. The Chair of the Independent Review Panel will have the casting vote if the judgment is tied.

Where the panel directs or recommends that the governing board reconsider whether a pupil should be reinstated, the Interim Executive Board must reconvene to do so within ten school days of being given notice of the panel's decision.

The Interim Executive Board must conscientiously reconsider whether the pupil should be reinstated, whether the panel has directed or merely recommended it to do so. Whilst the Interim Executive Board may still reach the same conclusion as it first did, it may face challenge in the courts if it refuses to reinstate the pupil, without strong justification.

10. 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.

11. Returning from a suspension

Following a suspension, a re-integration meeting will be held involving the pupil, parents, a member of senior staff and other staff, where appropriate.

12. Monitoring arrangements

The Pastoral Vice Headteacher monitors the number of exclusions every term and reports back to the Headteacher and Interim Executive Board in the full Interim Executive Board meeting. The Interim Executive Board should consider the following:

- Effectiveness and consistency in implementing the school's behaviour policy
- The school register and absence codes

- Instances where pupils receive repeat suspension
- Interventions in place to support pupils at risk of suspension and permanent exclusions
- Any variations in the rolling average of permanent exclusions
- Timing of managed moves and permanent exclusions and any patterns
- Understanding the characteristics of excluded pupils
- Is Alternative Provision effective

13. Policy review

This policy is reviewed annually by the Interim Executive Board and where materially amended is consulted on, where necessary. We will monitor the application and outcomes of this policy to ensure it is working effectively.

A summary of the Interim Executive Board duties to review the headteacher's exclusion decision

Conditions of exclusion

Interim Executive Board duties

Does the exclusion meet any of the following conditions?

- It is a permanent exclusion
- It is a suspension that alone, or in conjunction with previous suspensions, will take the pupil's total number of days out of school above 15 for a term
- It is a suspension or permanent exclusion that will result in the pupil missing a public exam or national curriculum test*



Yes

The governing board must convene a meeting to consider reinstatement **within 15 school days** of receiving notice of the suspension or permanent exclusion.⁴⁹

*If the pupil will miss a public exam or national curriculum test, the governing board must take reasonable steps to meet **before** the date of the examination. If this is not practical, the chair of governors may consider pupil's reinstatement alone.⁵⁰

No



Will the suspension(s) take the pupil's total number of school days out of school above five but less than 16 for the term?



No

The Interim Executive Board must consider any representations made by parents and has the power to consider the reinstatement of the pupil.

Yes

Have the pupil's parents requested a governing board meeting?



Yes

The Interim Executive Board must convene a meeting to consider reinstatement within 50 school days of receiving notice of the suspension.

No



The Interim Executive Board is not required to consider the suspension but does have the power to consider the reinstatement of the

Appendix 2: Setting up an Independent Review Panel

A panel of 3 or 5 members will be constituted with representatives from each of the categories below. Where a five -member panel is constituted, two members will come from the governor's category and 2 members will come from the Headteacher category providing that the following criteria are met:

- 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
- Current or former school governors (of a maintained school, members of a PRU management committees and directors of academy trusts) who have served as a governor for at least 12 consecutive months in the last five years, provided they have not been teachers or headteachers during that time.
- headteachers or individuals who have been a headteacher within the last 5 years.

Appendix 3: Appointing Independent Review Panel Members

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

- are a member of the local authority, if the excluding school is a maintained school or pupil referral unit;
- are a director of the academy trust of the school, if the excluding school is an academy;
- are the headteacher of the school who has permanently excluded the pupil or anyone who has held this position in the last five years;
- are an employee of the local authority/academy trust, or the governing board, of the school who has permanently excluded the pupil (unless they are employed as a headteacher at another school);
- have, or at any time have had, any connection with the local authority/academy trust, school, governing board, parents or pupil, or the incident leading to the permanent exclusion, which might reasonably be taken to raise doubts about their impartiality (though an individual must not be taken to have such a connection simply because they are employed by the local authority/academy trust as a headteacher at another school); or

have not had the required training within the last two years

Training for panel members and clerks

1. The Trust must ensure that all panel members and clerks have received training within the two years before the date of the review. This training must have covered:

- the requirements of the primary legislation, regulations and statutory guidance governing suspensions and permanent exclusions on disciplinary grounds (which would include an understanding of how the principles applicable in an application for judicial review relating 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 of a review panel;
- the role of the clerk to 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.