

# Exclusion Policy



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# Contents

Introduction

When is exclusion used?

The Exclusion Decision and Notification

The investigation and the Headteacher's decision

Notifying parents

Notifying the Local Authority

Education during exclusions

Governing Body committee review

The Governing Body Committee decision

Notification of the decision

Removing an excluded pupil from the school roll

Review by an independent panel

If the Panel does not uphold the exclusion

## Introduction

1. This policy should be implemented with regard to any statutory guidance issued by the Secretary of State, which should be read alongside it. The current guidance is, "Exclusion from maintained schools, Academies and pupil referral units in England: A guide for those with legal responsibilities in relation to exclusion" (February 2015), which is available from <https://www.gov.uk/government/publications/school-exclusion>

## When is exclusion used?

2. The Academy is committed to educational inclusion and it employs a range of strategies to reduce the risk of disaffection, truancy, absence and the need for fixed term and permanent exclusion. Exclusion is regarded as a very serious matter. It is for the Headteacher to decide whether a child's behaviour warrants permanent exclusion, though this is a serious decision and should be reserved for:
  - a) A serious breach, or persistent breaches, of the school's behaviour policy; or
  - b) where a pupil's behaviour means allowing the pupil to remain in school would be detrimental to the education or welfare of the pupil or others in the school.
3. In most cases exclusion will only be used when alternative sanctions and support have been tried and failed to improve a pupil's behaviour, including investigating any underlying problems which may be causing that poor behaviour. One exception to this may be if a pupil with no previous history of poor behaviour unexpectedly commits a very serious disciplinary offence which warrants exclusion.



4. All exclusions of a pupil, even for short periods of time, will be formally recorded. 'Informal' or 'unofficial' exclusions, such as sending pupils home 'to cool off', are unlawful, regardless of whether they occur with the agreement of parents or carers.
5. Sometimes pupils with a track record of poor behaviour can benefit from moving to a different school to make a fresh start. A 'managed move' of this sort will only occur with the consent of the parties involved, including the parents. The Academy will only support managed moves when it believes they will be beneficial to the pupil. Managed moves will not be used as an alternative punishment. The threat of exclusion will never be used to influence parents to remove their child from the school.
6. No pupil will be excluded for one or more fixed periods in excess of 45 school days in one school year.

## **The Exclusion Decision and Notification**

### **The investigation and the Headteacher's decision**

7. The decision to exclude a pupil from the school will be at the discretion of the Headteacher.
8. Before any decision is made to exclude a pupil, an investigation will occur, usually led by the Headteacher. This may include taking statements from other pupils, discussions with the pupil's teachers and senior staff, a review of the pupil's file and past history at the Academy. The Headteacher or a nominated member of senior staff may arrange a meeting with the pupil and his/her parents to investigate the case and its circumstances prior to making a decision about whether to exclude the child, or about the duration of the exclusion.
9. The Headteacher's recommendation will set out the reasons for the exclusion and describe the incident(s) which led to the recommendation, drawing on the evidence gathered during the investigation.
10. The Headteacher's decision will be based on the evidence presented and will consider the good of the pupil involved, including the time in the pupil's career and the effect of his/her continued presence on the rest of the pupil body.
11. In making his/ her decision the Headteacher will apply the civil standard of proof, (i.e. 'on the balance of probabilities' it is more likely than not that a fact is true) rather than the criminal standard of 'beyond reasonable doubt'.
12. The Academy's Governors will not have any role in the initial decision to exclude to ensure that they are able to perform their review function properly and impartially.



## Notifying parents

13. When a decision is taken to exclude a child the parents will be notified, by an appropriate means<sup>1</sup>, by the end of the afternoon session of:

- the period of the exclusion and the reasons for it
- the parents' legal duty for the first five school days of an exclusion (or until the start date of any alternative provision where this is earlier) to ensure that the child is not present in a public place during school hours without reasonable justification, and that parents may be given a fixed penalty notice or prosecuted if they fail to do so.

14. The parents will then be provided with the following information in writing as soon as possible:

- the reasons for the exclusion;
- the period of a fixed period exclusion or, for a permanent exclusion, the fact that it is permanent;
- for fixed term exclusions, an invitation to a return to school interview with a member of senior staff at the end of the exclusion
- parents' right to make representations about the exclusion to the Governors (in line with the requirements set out in paragraphs 50 to 57) and how the pupil may be involved in this;
- how any representations should be made; and
- where there is a legal requirement for the governing body to consider the exclusion, that parents have a right to attend a meeting, be represented at this meeting (at their own expense) and to bring a friend.
- a link to the statutory guidance on exclusions at <https://www.gov.uk/government/publications/school-exclusion>
- a link to the Coram Children's Legal Centre at <http://www.childrenslegalcentre.com>, 0808 802 0008; and

15. If alternative provision is being arranged, then the following information must be included with this notice where it can reasonably be found out within the timescale:

- the start date for any provision of full-time education that has been arranged for the pupil during the exclusion;
- 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 he / she should report to on



the first day.

<sup>1</sup> If possible notice should be in writing, but notification in person, by telephone, email, text or other means is acceptable if it is not possible to give written notice. If the initial information is not provided in writing, it should be included in the subsequent more detailed written notification described in paragraph 15.

16. 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 must be provided without delay and 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.

### **Notifying the Local Authority and Governors**

17. The Headteacher must, without delay, notify the governing body and the local authority (including the pupil's home local authority, if different) of:

- a permanent exclusion (including where a fixed period exclusion is made permanent);
- exclusions which would result in the pupil being excluded for more than five school days (or more than ten lunchtimes) in a term; and
- exclusions which would result in the pupil missing a public examination or national curriculum test.

18. For all other exclusions the Headteacher must notify the local authority and governing body once a term. All notifications must include the reasons for the exclusion and the duration of any fixed period exclusion

### **Education during exclusions**

19. A senior member of staff with responsibility for the pupil will ensure that work is organised for the first five days of any fixed term exclusion and this will be sent home if necessary. The Headteacher will arrange full time education for pupils from the sixth day of any fixed term exclusions of six days or more, possibly with placements at another Academy school. The pupil's home Local Authority is responsible for arranging education for pupils who are permanently excluding, starting from the sixth day of the exclusion.

### **Governing Body Committee review**

20. A committee of the governing body, consisting of at least three governors will review exclusions if:

- the exclusion is permanent; or
- it would result in a pupil missing a public examination or national curriculum test.
- it is a fixed period exclusion which would bring the pupil's total number of school days of exclusion to more than 15 in a term; or
- it is a fixed period exclusion which would bring the pupil's total number of school days of exclusion to more than 5 in a term and the parents request a review



21. In the case of a fixed period exclusion which does not bring the pupil's total number of days of exclusion to more than five in a term, a Committee must consider any written representations made by parents, but it cannot direct reinstatement and is not required to arrange a meeting with parents.
22. The review must happen within fifteen school days in the first three cases, and within fifty school days in the last case. In the second case the Committee should, so far as is reasonably practicable, consider the exclusion before the date of the examination or test
23. In addition to considering the evidence considered by the Headteacher and his/her conclusions, the Governing body must consider any representations from the Headteacher or the parents. The Headteacher and parents will be invited to the review meeting. The Governing body may also invite the pupil to attend the meeting or to feed in his/her views in other ways, taking into account the pupil's age and understanding. All parties will be given five school days' notice of the date of the meeting.
24. The meeting must be organised as follows:
  - Where possible the school's papers must be sent to parents and governors five school days before the meeting. Any written evidence or representations must be submitted three school days before the meeting and circulated by the Committee to all parties two school days before the meeting.
  - The Committee will appoint a clerk – usually a member of Academy staff – to make a record of the meeting. Audio recording will usually be used, but alternatively minutes may be taken. The record of the meeting will be made available to all parties on request.
  - The Committee will invite the Headteacher to make his/her representations and then invite the parents to do the same. Committee members may ask questions of anyone present at the meeting. If the pupil has been invited s/he may also be asked to speak.
  - All parties, save the clerk, will be asked to withdraw before the Committee makes its decision

### **The Governing Body Committee decision**

25. In reaching a decision on whether or not to reinstate a pupil, the Committee should consider whether the decision to exclude the pupil was lawful, reasonable and procedurally fair, taking account of the Headteacher's legal duties. When establishing the facts in relation to an exclusion decision the governing body must apply the civil standard of proof; i.e. 'on the balance of probabilities' it is more likely than not that a fact is true rather than the criminal standard of 'beyond reasonable doubt'
26. In the light of their consideration, the governing body can either:
  - uphold an exclusion; or
    - direct reinstatement of the pupil immediately or on a particular date.



27. In cases where the Committee considers parents' representations but does not have the power to direct a pupil's reinstatement – because the exclusion was short and is already concluded – they should consider whether it would be appropriate to place a note of their findings on the pupil's educational record.
28. If the Committee reinstates a pupil, the pupil and his parent(s) must be invited to a return to school interview with the Headteacher.

### **Notification of the decision**

29. The governing body must notify parents, the Headteacher and the local authority of their decision, and the reasons for their decision, in writing and without delay. Where the pupil resides in a different local authority from the one that maintains the school, the governing body must also inform the pupil's 'home authority'.

30. In the case of a permanent exclusion the governing body's notification must also include the fact that it is permanent and notice of parents' right to ask for the decision to be reviewed by an independent review panel, including the following information:

- the date by which an application for a review must be made (i.e. 15 school days from the date on which notice in writing of the governing body's decision was given to parents);
- the name and address to whom an application for a review (and any written evidence) should be submitted;
- that any application should set out the grounds on which it is being made and that, where appropriate, this should include a reference to how the pupil's special educational needs are considered to be relevant to the exclusion;
- that, regardless of whether the excluded pupil has recognised special educational needs, parents have a right to require the local authority / 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 a SEN expert to be appointed in any application for a review; and
- that parents may, at their own expense, appoint someone to make written and / or oral representations to the panel and that parents may also bring a friend to the review.
- that, in addition to the right to apply for an independent review panel, if parents believe that the exclusion has occurred as a result of discrimination then 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.
- that a claim of discrimination made under these routes should be lodged within six months of the date on which the discrimination is alleged to have taken place, e.g. the day on which the pupil was excluded



- a link to the statutory guidance on exclusions at <https://www.gov.uk/government/publications/school-exclusion>
- a link to the Coram Children’s Legal Centre at <http://www.childrenslegalcentre.com>, 0808 802 0008; and
- where considered relevant by the Headteacher, links to other local services.

### **Removing an excluded pupil from the school roll**

31. 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 governing body’s decision to uphold a permanent exclusion 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.
32. Where an application for an independent review panel has been made within 15 school days, the pupil’s name will not be removed from the roll until the review has been determined, or abandoned.
33. Where a pupil’s name is removed from the school register and a discrimination claim is subsequently made, the First-tier Tribunal or County Court has the power to direct that the pupil should be reinstated.

### **Review by an independent panel**

34. Parents may apply for an Independent Panel to review the Governing Body decision. The application must be made:
  - within 15 school days of notice being given to the parents by the governing body of their decision to uphold a permanent exclusion (in accordance with the requirements in paragraph 74); or
  - within 15 school days of the final determination of any claim of discrimination under the Equality Act 2010 in relation to the exclusion, where such a claim is made and no application for review by an independent panel has yet been made.
35. On receipt of an application the Academy will arrange a suitable Independent Review Panel, usually by sub-contracting to a specialist company. This will be done within 15 school days of receipt of the application for review and in accordance with the relevant statutory guidance for the operation of Independent Review Panels.
36. If requested by parents in their application for an independent review panel, the Academy will appoint a SEN expert to attend the panel and cover the associated costs of this appointment. The Academy will provide the parents with details of the proposed SEN expert and will – if more than one is available – offer the parents a choice. The final



decision about which expert to appoint will be taken by the Academy, but it will endeavour to take the parents views into account.

37. Following its review, the Panel can decide to:

- uphold the exclusion decision;
- recommend that the governing body reconsiders their decision, or
- quash the decision and direct that the governing body considers the exclusion again.

38. The Panel will write to the parents and the Academy to inform them of its decision.

### **If the Panel does not uphold the exclusion**

39. Where the panel directs or recommends that the governing body reconsiders their decision, the governing body Committee must reconvene to do so within 10 school days of being given notice of the panel's decision. Only the Committee members and the clerk should attend.

40. In the case of either a recommended or directed reconsideration, the governing body must notify the following people of their reconsidered decision, and the reasons for it, in writing and without delay: the parents; the Headteacher; the local authority and, where relevant, the 'home authority'.

41. If the Committee reinstates a pupil, the pupil and his parent(s) must be invited to a return to school interview with the Headteacher.

