



## Exclusion Policy

| <u>Status of Policy</u> | <u>Date</u>      |
|-------------------------|------------------|
| Policy Reviewed         | Spring Term 2019 |
| Agreed by Staff         | Spring Term 2019 |
| Agreed by Governors     | Spring Term 2019 |
| Next Review             | Spring Term 2021 |

Headteacher Signature: Nicola Hair

Date: Spring 2019

Chair of Governors Signature: Alan Wright

Date: Spring 2019

## Introduction

Good discipline is essential to ensure that all pupils can benefit from the opportunities provided by education. The school's behaviour policy outlines expectations and key strategies for promoting good behaviour. The Government supports head teachers in using exclusion as a sanction where it is warranted. However, exclusion should only be used as a last resort, in response to a serious breach, or persistent breaches, of the school's behaviour policy; and where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

This policy is implemented 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](#)

## Purpose of this policy

This policy is designed to briefly outline the school's approach to exclusions within the statutory framework as defined in the *The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012*. It outlines only where the school applies its own additional guidance and policies, which complement and reinforce the statutory guidance, for purposes of clarity in the day-to-day operation of the school.

## The decision to exclude

Only the head teacher, or acting head teacher, 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

Fixed Term Exclusion - Exclusions will be used sparingly and only if there are serious breaches of the school's behaviour policy or civil law; or if allowing the pupil to remain in school would be seriously detrimental to the education or welfare of the pupil or others. Fixed Period exclusions may not exceed 45 days in any one year.

Persistent poor behaviour at lunchtime may result in a fixed period exclusion which covers the lunchtime break. This is subject to the normal rights of appeal.

Permanent Exclusion - The Head teacher holds responsibility for taking the decision to permanently exclude a pupil. However, in the absence of the Head teacher the Deputy or other senior teacher in charge may exclude a pupil for a fixed period. Permanent exclusion is used as a last resort, when all other reasonable steps have been taken.

A pupil may, in extreme cases, be permanently excluded following a serious 'one off' breach of the school's behaviour policy. At East Herrington Primary Academy this could apply in the event of serious or threatened violence against a pupil or member of staff.

The decision to exclude a pupil must be lawful, reasonable and fair. Care is taken not to discriminate against pupils on the basis of protected characteristics, such as disability or race. Particular consideration is given to the fair treatment of pupils from groups who are vulnerable to exclusion.

### **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.

### **Fixed period exclusion**

These exclusions are usually for a short period and include lunch-time exclusions. The pupil returns after the exclusion period has expired. In cases of more than a day's exclusion, work should be set and marked.

### **Permanent exclusion**

This means the pupil cannot return to the school unless reinstated.

If a pupil is permanently excluded from any school, the Local Authority (LA) has the duty to provide other suitable education. Together for Children deliver this service on behalf of Sunderland City Council. A pupil may be placed in another school or other suitable arrangements may be made. If a child is fixed term or permanently excluded parents/carers may have the right to make representations to the school's Governing Body. It is the governing body's role to either decline to reinstate the pupil; or direct reinstatement. If a pupil has been permanently excluded and the governors decide to decline reinstatement of the pupil, parents/carers can request that the decision is reviewed by an Independent Review Panel.

## **Roles and responsibilities**

### **The Headteacher**

#### **Informing parents**

The headteacher will immediately provide the following information, in writing (Appendix A), 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 Body

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.

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.

### **Notification of an Exclusion**

Parents will be notified as soon as possible of the decision to exclude a student and the reason for the exclusion. This will be done on the day of the exclusion being authorised by either direct phone contact or a face-to-face meeting. A written confirmation of the reason(s) for the exclusion will be sent to parents the same day.

In the case of a Permanent Exclusion parents will be notified by the Headteacher in a face-to-face meeting.

A student who has been excluded will have the reason for his/her exclusion explained to them by a member of staff so that they understand the nature of their misbehaviour.

The school will also work to put in place a programme for the pupil on his/her return. This will include input from staff at the school, parents, if appropriate, and any other appropriate bodies e.g. School Home Support Practitioner, Attendance Service or the Local Authority. Should it be decided for whatever reason that the matter needs to be put in the hands of another agency i.e. the incident leads to the discovery that there is a child protection issue, the school will continue to monitor the situation and work closely with that agency. It is hoped that in most cases following an exclusion, the child will be able to return to school and that further input will promote in him/her a more positive attitude and a subsequent improvement in behaviour.

### **Informing the Local Governing Body, Trust Chief Executive Officer and Local Authority**

The headteacher will immediately notify the Local Governing Body, Trust CEO 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 Local Governing Body, CEO and LA once a term.

#### **The Governing Body**

Responsibilities regarding exclusions is delegated to a sub-committee of the Local Governing Body. The sub-committee has a duty to consider the reinstatement of an excluded pupil.

#### **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.

## **Considering the reinstatement of a pupil**

The Local Governing Body sub-committee 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

Where an exclusion would result in a pupil missing a public examination, the sub committee of the Local Governing Body will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the sub committee of the Local Governing Body will consider the exclusion and decide whether or not to reinstate the pupil.

The sub-committee of the Local Governing Body can either:

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

In reaching a decision, sub-committee of the Local Governing Body 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', 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 sub committee will notify, in writing, the Headteacher, CEO, parents and the LA of its decision, along with reasons for its decision.

Where an exclusion is permanent, the sub committee'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 SEN are considered to be relevant to the exclusion
  - 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

## **An independent review**

If parents apply for an independent review, the 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 a sub committee of its decision to not reinstate a pupil.

The independent panel will decide one of the following:

- Uphold the governing body's decision

- Recommend that the governing body reconsiders reinstatement
- Quash the governing body'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.

### **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 body 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.

### **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.

The following measures may be implemented when a pupil returns from a fixed-term exclusion:

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

### **Permanent Exclusions**

A school will usually only permanently exclude a child as a last resort, after trying to improve the child's behaviour through other means. However, there are exceptional circumstances in which a headteacher may decide to permanently exclude a pupil because of ongoing issues or even for a 'one-off' incident.

If your child has been permanently excluded, be aware that:

- the school's governing body is required to review the headteacher's decision and you may meet with them to explain your views on the exclusion
- if the governing body confirms the exclusion, you can appeal to an independent appeal panel organised by the local authority
- the school must explain in a letter how to lodge an appeal
- the local authority must provide full-time education from the sixth day of a permanent exclusion

### **Links with other policies**

This exclusions policy is linked to Balmoral Learning Trust and Trust school/ academy

- Behaviour policy
- SEN policy

### **Who to contact:**

Michelle Burlinson, Inclusion and Access Officer, Together for Children.

Tel: 0191 561 1442

### **External links**

Exclusion from maintained schools, academies and pupil referral units in England – Statutory guidance, Department for Education.

- School Discipline and Exclusions – Department for Education
- Coram Children’s Legal Centre
- ACE Education
- National Autistic Society (NAS) Exclusion Service (England)
- Independent Parental Special Education Advice





**Appendix A – example notification letter**

**From Headteacher notifying parent of a fixed period exclusion of under 6 days in one term, and where a public examination is not missed.**

Date

Dear

I am writing to inform you of my decision to exclude .... for a fixed period of ..... day(s). This means that s/he will not be allowed in school for this period. The exclusion begins/began on ..... and ends on .....

The decision to exclude .... has not been taken lightly. .... has been excluded for this fixed period because **[SPECIFY REASONS FOR EXCLUSION]**.

You have a duty to ensure that your child is not present in a public place in school hours during this exclusion on **[INSERT DATES]** unless there is reasonable justification for this (or until the start date of any alternative provision where this is earlier). I must advise you that you may receive a penalty notice from the local authority if your child is present in a public place during school hours on the specified dates. If so, it will be for you to show reasonable justification.

We will set work for .... to be completed on the days specified in the previous paragraph **[INSERT ARRANGEMENTS FOR THIS]**. Please ensure that work set by the school is completed and returned to us promptly for marking.

You have the right to make representations about this decision to the governing body. If you wish to make representations please contact **[INSERT NAME OF CONTACT]** on/at **[INSERT CONTACT DETAILS]** as soon as possible. Whilst the governing body/management committee has no power to direct reinstatement, they must consider any representations you make and may place a copy of their findings on your child's school record. [pupil's name], where applicable, is encouraged to attend any proposed meeting.

You should be aware that if you think the exclusion has occurred as a result of discrimination, you may make a claim under the Equality Act 2010 to the First Tier Tribunal (Special Educational Needs and Disability), and in the case of disability discrimination, or the County Court, in the case of other forms of discrimination (<http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/send/index.htm>). 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.

You may wish to contact the following sources of advice about exclusion from school:

The Advisory Centre for Education (ACE) is an independent national advice centre for parents of children in state schools.

Phone: 0808 800 0327. The advice line is open from 10am to 1pm Monday to Thursday.  
<http://ace-ed.org.uk>

Department for Education statutory guidance on exclusions 'Exclusions from maintained schools, Academies and pupil referral units in England' 2012.

<http://www.education.gov.uk/schools/pupilsupport/behaviour/exclusion/g00210521/statutory-guidance-regs-2012>

....'s exclusion expires on ..... and we expect .... to be back in school on **[INSERT DATE OF RETURN]** at **[INSERT TIME OF RETURN]**.

Yours sincerely

**[INSERT NAME OF HEADTEACHER]**

**Appendix B - Exclusions:**

|  |  |
|--|--|
| <p><b>procedures and timescales at a glance</b><br/> <b>Fixed period exclusion</b><br/> <b>5 days or less (or 10 or fewer lunchtimes or half days)</b></p>   | <p><b>Fixed period exclusion 6-15 days (block or accumulated in any one term) or more than 10 lunchtimes or half days</b></p>  |
| <p>Notification to parent/carer &amp; LA immediately. No requirement for GDC to meet unless parent/carer wishes to make a representation. (Although there is no legal requirement for governors to meet with parents to discuss the representation, good practice dictates that this should take place and preferably as soon as convenient to all.)<br/>         Notification to the GDC once a term.</p> | <p>The school shall make available, suitable full time education from day 6 of a block exclusion.</p>  |
| <p>GDC has no power of reinstatement or mitigation, but must place the parent's/carer's statement on the pupil's record along with a copy of the GDC view.</p>   | <p>Notification to parent/carer, GDC, &amp; LA immediately.</p>  |
| <p>There are no rights of Independent Appeal although appeals could be made to the First Tier Tribunal where disability discrimination is alleged to have taken place (see DFE Guidance).</p>  | <p>No requirement for GDC to meet unless parent/carer wishes to make representations and then the GDC meets between 6 and 50 school days after receiving notification of the exclusion. NB However this would be convened a.s.a.p.</p> |
| <p>The headteacher of a primary school must arrange a reintegration interview during or following the expiry of any fixed period exclusion.</p>  | <p>Parents/carers may make representations to the GDC orally and/or in written form</p>  |
|  | <p>GDC has power to uphold, reinstate or mitigate the length of the exclusion (although time served will remain as served and a note will go on the pupil's file).</p>   |
|  | <p>There are no rights of Independent Appeal although appeals could be made to the First Tier Tribunal where disability discrimination is alleged to have taken place (see DFE Guidance).</p>  |
|  | <p>The headteacher must arrange a reintegration interview</p>  |

GDC = Governors' Discipline Committee

**Exclusions: procedures and timescales at a glance Long fixed period exclusions 16-45 days in any one term, block or accumulated**

- The school shall make available, suitable full time education from day 6.
- Notification to parent/carer, GDC & LA immediately.
- GDC to meet between 6 and 15 school days after the date of the receipt by the GDC of exclusion.
- Parents may make representation to the GDC orally and/or in written form.
- LA must be consulted in order to assess whether LA statement and/or attendance at the GDC is appropriate.
- Full paperwork should be provided by the school to all the parties prior to the meeting.
- The exclusion must be used to plan for the child and a PSP (Primary Support Plan) should be put into place if not already initiated.
- GDC has the power to uphold, reinstate or mitigate the length of the exclusion (although time served will remain as served and a note will be placed on the pupil file).
- A copy of the GDC decision letter should be sent to the LA
- There are no rights of Independent Appeal although appeals could be made to the First Tier Tribunal where disability discrimination is alleged to have taken place (see DFE Guidance).
- The headteacher must arrange a reintegration interview

**Exclusions: procedures and timescales at a glance Permanent exclusion**

- The LA shall make available, suitable full time education from day 6.
- Notification to parent/carer, GDC, & LA immediately.
- GDC to meet between 6 and 15 school days from the date of receipt by the GDC of a notice of exclusion.
- Parents may make representation to the GDC orally and/or in written form.
- The LA must be invited to the meeting at a time convenient to all parties.
- Full paperwork should be provided by East Herrington Primary Academy to all the parties **5 days** prior to the meeting.
- GDC has the power to uphold, or reinstate the pupil immediately or by a particular date. They should write to parents and LA informing them of their decision within one school day.
- If reinstated, the exclusion remains on the pupil record as a matter of fact, but the reinstatement is added to the record.
- Parents have the right to make an appeal to an Independent Appeals Panel (IAP) even if they do not attend the GDC meeting and/or if they do not wish their child to be reinstated to the excluding school. They must do this within 15 school days after the receipt of notification of the GDC decision to uphold the permanent exclusion.
- IAPs will also hear appeals against permanent exclusion where disability discrimination is alleged to have taken place (see DFE Guidance). The decision of the IAP is binding on all parties.