



EXCLUSIONS POLICY

<p>The Policy was formally adopted by the Governing Board on:</p>	<p>27th September 2022:</p>
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1. Aims

- At this school we aim to ensure that:
- Students at the school are safe and happy;
- The exclusion process (suspensions and permanent) is applied fairly and consistently within the school;
- The exclusion process (suspension and permanent) is understood by governors, staff parents and students (or pupils);
- Students are not at risk of becoming NEET (Not in Education, Employment or Training);
- Amongst other disciplinary sanctions, the school recognises that exclusion of pupils may be necessary where there has been a serious breach, or persistent breaches, of the school's Behaviour Policy.

2. Legal Framework

This policy is based on the Statutory guidance **on Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England including Pupil Movement 2022** being the statutory guidance for those with legal responsibilities in relation to exclusion. This advice should not be read in isolation. It is important for schools to consider **Behaviour in Schools Guidance; Keeping Children safe in Education; Mental Health and Behaviour in Schools; Understanding your data: a quick guide for school governors and academy trustees** Links to relevant supplementary guidance can be found at Annex A of the DFE Exclusions Guidance 2022.

The principal 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

This policy will be implemented in conjunction with the following school policies and procedures:

- Behaviour Policy
- Anti-Bullying Policy
- Special Educational Needs and Disabilities (SEND) Policy
- Social, Emotional and Mental Health (SEMH) Policy
- Child Protection and Safeguarding Policy
- Any other policy relevant to your school

3. Grounds for exclusion

The school can only exclude a pupil where it is absolutely necessary, and where all other possible disciplinary sanctions, as detailed in the school's Behaviour Policy, have failed to be successful.

Pupils can be excluded on a fixed-period basis, i.e. up to 45 school days within a year, or permanently. Similarly, pupils can be permanently excluded following a fixed-period exclusion, where further evidence is presented.

Under no circumstances can a pupil be ‘sent home to cool off’. This is an illegal exclusion. Any pupil sent home must be excluded legally as set out in this document.

Neither will the school off-rol a pupil. Off-rolling is the practice of removing a pupil from the school roll without using a permanent exclusion, this includes pressuring a parent to remove their child from the school roll. See ‘[Exploring the issue of off rolling](#)’ for further details.

In all cases, the headteacher will decide which exclusion period a pupil will be subject to, depending on what the circumstances warrant.

The school/academy has the power to direct a pupil off-site to improve their behaviour. (Para 35 DFE Guidance)

In most cases a range of alternative strategies will have been tried before excluding a child permanently for persistent disruption. Where a one-off incident of sufficient gravity has taken place, this may not apply.

4. The headteacher’s power to exclude

- Only the headteacher (or the acting headteacher if the headteacher is absent) has the power to exclude a pupil from the school and is able to decide whether this is for a fixed-period (suspension) or on a permanent basis. Any exclusion must be issued on disciplinary grounds.
- The headteacher is able to exclude pupils from the premises where their behaviour is disruptive during lunchtime. All lunchtime exclusions will be counted as half of a school day.
- The headteacher is able to consider a pupil’s disruptive behaviour outside of the school premises as grounds for exclusion, in accordance with the school’s Behaviour Policy.
- Any decision made to exclude a pupil must be lawful, reasonable fair and proportionate, with respect to legislation relating directly to exclusions and the school’s wider legal duties, including the ECHR.
- All exclusions will be formally recorded on the pupil information system (SIMs).
- When sending a pupil home following any exclusion, the headteacher will ensure that they exercise their duty of care at all times and will always inform the parents.
- The headteacher will apply the civil standard of proof when responding to the facts relating to an exclusion, i.e. that ‘on the balance of probabilities’ it is more likely than not that the facts are true.
- The headteacher may withdraw any exclusion that has not already been reviewed by the governing board. Parents, the governing board, and the LA should be notified without delay and, if relevant, the social worker and VSH; • Parents should be offered the opportunity to meet with the headteacher to discuss the circumstances that led to the exclusion being cancelled; Schools should report to the governing board once per term on the number of exclusions which have been cancelled. This should include the circumstances and reasons for the cancellation enabling governing boards to have appropriate oversight and; The pupil should be allowed back into school.
- At all times, the headteacher will take into account their legal duties under the Equality Act 2010 and the ‘Special educational needs and disability code of practice: 0 to 25 years’, ensuring

that they do not discriminate on any grounds, e.g. race, sex, disability, and will not increase the severity of a pupil's exclusion on these grounds.

- The headteacher will not issue any 'informal' or 'unofficial' exclusions, e.g. sending a pupil home to 'cool-off', regardless of whether or not the parents have agreed to this.
- The headteacher will not use the threat of exclusion as a means of instructing parents to remove their child from the premises. (Off-rolling)

It is unlawful to exclude for a non-disciplinary reason. For example, it would be unlawful to exclude a pupil simply because they have additional needs or a disability that the school feels it is unable to meet, or for a reason such as: academic attainment/ability; the action of a pupil's parents; or the failure of a pupil to meet specific conditions before they are reinstated, such as to attend a reintegration meeting. However, a pupil who repeatedly disobeys their teachers' academic instructions could be subject to exclusion.

5. The decision to exclude

When considering the exclusion of a pupil, the headteacher will:

- Allow the pupil the opportunity to present their case.
- Take into account any contributing factors that are identified after a case of poor behaviour has occurred, e.g. if the pupil's wellbeing has been compromised, or they have been subjected to bullying.
- Take into consideration whether the pupil has received multiple exclusions or is approaching the legal limit of 45 excluded days per school year, and whether exclusion is serving as an effective sanction.
- Consider early intervention to address underlying causes of disruptive behaviour, including liaising with external agencies, to assess pupils who demonstrate consistently poor behaviour.
- The headteacher will consider what extra support may be available for vulnerable pupil groups whose exclusion rates are higher, to reduce their risk of exclusion, including the following:
 - LAC
 - Pupils eligible for FSM
 - Pupils with SEND
 - Pupils with an EHCP
 - Certain ethnic groups
- The headteacher will consider avoiding permanently excluding LAC pupils, those with SEMH issues or pupils with an EHC plan.
- Where any member of staff has concerns about vulnerable pupil groups and their behaviour, they will report this to the headteacher, who will instigate a multi-agency assessment to determine whether the behavioural issues might be a result of educational, mental health or other needs and vulnerabilities.
- Where SEND or SEMH issues are identified, an individual behaviour plan will be created using the graduated response outlined in the school's Behaviour Policy. If the pupil continues to endanger the physical or emotional wellbeing of other pupils or staff, despite exhausting the graduated response process, then exclusion may be considered.

- In accordance with the Equality Act 2010, under no circumstances will a pupil with identified SEND or SEMH issues be excluded before the graduated response process has been completed.
- Where a pupil with SEND or SEMH issues is permanently excluded because of a SEND- or SEMH-related need that could not be met at the school, detailed records will be kept highlighting that these pupils are closely tracked and showing that the school has a close relationship with the pupil's next destination.
- The headteacher will work in conjunction with the parents of any pupil with additional needs to establish the most effective support mechanisms.

6. Duty to inform parties about an exclusion or potential exclusion

Where a pupil has a social worker and they are at risk of suspension or permanent exclusion the Headteacher should inform the social worker, the Designated Safeguarding Lead and the pupil's parents as early as possible to involve them in relevant conversations.

Where a looked after child is likely to be subject to a suspension or permanent exclusion, the Designated Teacher should contact the local authority's Virtual School Head as soon as possible to decide what additional support can be put in place (Para 59 DFE Guidance)

Following the decision to exclude, the Headteacher (or designated representative) will notify parents/carers by telephone and provide the following information in writing, to the parents of an excluded student as soon as possible and no later than 24 hours after the decision has been made:

- the reason(s) for the exclusion;
- the period of a fixed-period exclusion or, for a permanent exclusion, the fact that it is permanent;
- parents' right to make representations about the exclusion to the governing board (in line with the requirements set out in paragraphs 95-105) 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 board to consider the exclusion, that parents have a right to attend a meeting, to be represented at that meeting (at their own expense) and to bring a friend.
- Where an excluded pupil is of compulsory school age the headteacher must also notify the pupil's parents of the days on which they must ensure that the pupil is not present in a public place at any time during school hours. These days would be the first five school days of an exclusion (or until the start date of any alternative provision or the end of the exclusion where this is earlier) Any parent who fails to comply with this duty without reasonable justification commits an offence and may be given a fixed penalty notice or be prosecuted.

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 child 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 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 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.

When notifying parents about an exclusion, the headteacher should draw attention to relevant sources of free and impartial information. This information should include:

- a link to this statutory guidance on exclusions (<https://www.gov.uk/government/publications/school-exclusion>);
- a link to sources of impartial advice for parents such as the Coram Children's Legal Centre (www.childrenslegalcentre.com), or ACE Education (<http://www.ace-ed.org.uk>) and their advice line service on 03000 115 142 on Monday to Wednesday from 10 am to 1 pm during term time); and
- where considered relevant by the headteacher, links to local services, such as Traveller Education Services, the Information Advice & Support Services Network (formerly known as the local parent partnership) (<https://councilfordisabledchildren.org.uk/information-advice-and-support-services-network/about>), the National Autistic Society (NAS) School Exclusion Service (England) (0808 800 4002 or schoolexclusions@nas.org.uk), or Independent Parental Special Education Advice (<http://www.ipsea.org.uk/>).

The headteacher should ensure that information provided to parents is clear and easily understood. Where the parents' first language is not English consideration should be given, where practical, to translating the letter or taking additional steps to ensure that the details of the exclusion and their right to make representations to the governing board have been understood

7. Duty to inform the governing board and Local Authority about an exclusion

- The headteacher must, without delay, notify the governing board and the local authority of :
- any permanent exclusion (including where a fixed-period exclusion is followed by a decision to permanently exclude the pupil);
- any exclusion which would result in the pupil being excluded for a total of more than five school days (or more than ten lunchtimes) in a term; and
- any exclusion which would result in the pupil missing a public examination or national curriculum test.
- For a permanent exclusion, if the pupil lives outside the local authority area in which the school is located, the headteacher must also notify the pupil's 'home authority' of the exclusion and the reason(s) for it without delay.
- The local authority must be informed without delay of all school exclusions regardless of the length of the exclusion
- The headteacher must also notify the local authority and governing board once per term of any other exclusions not already notified.
- The headteacher must without delay notify the pupil's social worker and the Virtual School Head if the pupil is LAC of the exclusion and the reasons for it. Both the social worker and VSH must be informed when the Governing Board meeting is to take place. The Social worker and VSH can attend the meeting should they wish to do so.

- In addition, within 14 days of a request, a governing board must provide to the Secretary of State and (in the case of maintained schools and PRUs) the local authority, information about any exclusions within the last 12 months.

8. The governing boards and Local Authority's duties to arrange education for excluded pupils

The Local Governing Board

The Local Governing Board has a duty to consider the reinstatement of an excluded student

Responsibility regarding exclusions is delegated to the pupil disciplinary committee of the Local Governing Board– the committee hearing any representation should comprise of 3 or more governors.

For a fixed-period exclusion of more than 5 school days, the Headteacher, on behalf of the Local Governing Board will arrange suitable full-time education for the student. This provision will begin no later than the sixth day of the exclusion. Provision does not have to be arranged for students in the final year of compulsory education who do not have any further public examinations to sit.

Local Authority

For permanent exclusions, the LA is responsible for arranging suitable full-time education to begin no later than the sixth day of the exclusion.

9. Statutory guidance on the education of pupils prior to the sixth day of an exclusion

Whilst the statutory duty on governing boards or local authorities is to provide full-time education from the sixth day of an exclusion, there is an obvious benefit in starting this provision as soon as possible. In particular, in the case of a looked after child or a child with a social worker, the school and the local authority should work together to arrange alternative provision from the first day following the exclusion

Where it is not possible, or not appropriate, to arrange alternative provision during the first five school days of an exclusion, the school should take reasonable steps to set and mark work for the pupil. On-line pathways such as Google Classroom or Oak Academy can be used. Work that is provided should be accessible and achievable by the pupil outside school.

10. The governing board's duty to consider an exclusion

The governing board may delegate to a smaller sub- committee if the trust's articles of association allow them to do so.

The governing board must consider the reinstatement of an excluded pupil within 15 school days of receiving notice of the exclusion if:

- the exclusion is permanent;
- 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 would result in a pupil missing a public examination or national curriculum test.
- In the case of a fixed-period exclusion where the pupil's total number of excluded days is more than 5 but less than 15 school days within a term, if requested by the parents, the governing board will consider exclusions within 50 school days of receiving notification.

- In the case of a fixed period exclusion, where the pupil's total number of excluded school days does not amount to more than five, in the absence of any representations by the parents, the governing board can consider reinstatement on their own.

Where an exclusion would result in a student missing a public examination, the Pupil Discipline Committee the Local Governing Board will consider the reinstatement of the student before the date of the examination. If this is not practicable, the Pupil Discipline Committee of the Local Governing Board will consider the exclusion and decide whether or not to reinstate the student. The Committee can either:

- Decline to reinstate the student, or;
- Direct the reinstatement of the student immediately, or on a particular date.

The governing board will also consider whether it would be appropriate to allow the excluded pupil to enter the premises to take the examination.

Time scales and decisions to be made by Governing Bodies

No of days exclusion in term	5 or fewer	5½to 15	More than 15 in one term	Pupil will miss public exam	Permanent exclusions.
Parents have the right to make written representations	Yes	Yes	Yes	Yes	Yes
Parents have the right to meet with governors	No. Governing Board must consider representation in 50 days and has power to reinstate	Yes, if parents request	Yes. Governors must meet	Yes. Governors must meet	Yes. Governors must meet
Timescale for meeting	None	50 school days	15 school days	15 school days where possible before the exam	15 school days
Reinstatement possible	Yes	Yes	Yes	Yes	Yes

The following parties must be invited to a meeting of the governing board and allowed to make representations:

- parents (and, where requested, a representative or friend);
- the headteacher; and

- Local authority representative in the case of maintained schools. A parent may invite a representative of the local authority to attend a meeting of an Academy's governing board as an observer; that representative may only make representations with the governing board's consent.
- Virtual school head and or social worker

11. Statutory guidance to a governing board in preparing for the consideration of an exclusion

When considering the reinstatement of an excluded pupil, the governing board will:

- Only discuss the exclusion with the parties present at the meeting.
- Consider any representations made by or on behalf of:-
 - Parents or the pupils if they are over 18 years old
 - The Headteacher
 - The pupil's social worker if they have one
 - If the pupil is looked after, the VSH
 - And the local authority (maintained school or PRU)
- Ask for any written evidence prior to the meeting.
- Circulate any written evidence and information to all parties, at least five school days in advance of the meeting.
- Allow pupils and parents to be accompanied by a person of their choice to the meeting.
- Consider what reasonable adjustments need to be made to support the attendance and contribution of parties at the meeting.
- Identify the steps needed to enable and encourage the excluded pupil to attend the meeting and speak on their behalf, or how they may contribute personal views by other means if attendance is not possible.
- Consider the interests and circumstances of the excluded pupil, including the grounds for exclusion.

12. The governing board's duty to notify people after its consideration of reinstatement

Where a meeting has been legally required, the governing board must notify the parents, the headteacher, the local authority and any social worker or VSH of their decision, and the reasons for their decision, in writing and without delay. Where a pupil lives in a different local authority, the governing board must also inform the home authority.

In the case of a permanent exclusion the governing board's notification must include the following:

- The fact that it is permanent,
- Notice of the parents' right to ask for the decision to be reviewed by an independent review panel and the following information:
 - a) the date by which an application must be made (i.e. 15 school days from the date on which notice in writing of the decision was given to parents),

- b) where and to whom an application for review (and any written evidence) should be submitted.
- c) 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 relevant to the exclusion,
- d) that, regardless of whether the excluded pupil has recognised special educational needs, parents have a right to require the local authority/Trust to appoint an SEN expert to attend the review to advise the review panel,
- e) details of the role of the SEN expert and that there should be no cost to parents for the appointment,
- f) that parents must make clear if they wish for a SEN expert to be appointed in any application for a review,
- g) 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 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 for discrimination made under the Equality Act 2010 should be lodged within 6 months on which the discrimination is alleged to have taken place e.g. the date on which the pupil was excluded

13. The governing board's duty to remove a permanently excluded pupil's name from the school register

The headteacher must remove a pupil's name from the school admissions register if:

- 15 school days have passed since the parents were notified of the governing board'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.
- Where an application for an independent review panel has been made within 15 school days, the headteacher must wait until the review has been determined, or abandoned, before removing a pupil's name from the register.
- Where a pupil's name is removed from the school register and a discrimination claim is subsequently made, the First-tier Tribunal (Special Educational Needs and Disability) or County Court has the power to direct that the pupil should be reinstated.

14. Marking attendance registers following exclusion

Whilst a pupil's name remains on the admissions register, the appropriate code will be used to mark the pupil's attendance:

Code B: Education off-site

Code D: Dual registration

Code E: Absent and not attending alternative provision

15. Statutory guidance to the local authority/academy trust duty to arrange a date and venue for a review

The legal time frame for an application is:

- Within 15 school days of notice being given to the parents by the governing board of their decision to uphold a permanent exclusion (in accordance with the requirements in paragraph 149); or
- where an application has not been made within this time frame, within 15 school days of the final determination of a claim of discrimination under the Equality Act 2010 in relation to the exclusion

The LA/Academy Trust will constitute an independent review panel of three or five members that represent the following categories:

- A lay member to chair the panel. This individual will not have worked in any school in a paid capacity, disregarding any experience as a school governor or volunteer
- A current or former school governor/directors of academy trusts who has served for at least 12 consecutive months in the last 5 years, provided that they have not been a teachers of headteachers during that time.
- A headteacher or individual who has been a headteacher within the last 5 years.

The LA/Academy Trust will adhere to all statutory guidelines when conducting an independent panel review, as outlined in the DfE's statutory guidance document 'Suspensions and Exclusions 2022.

The LA/Academy Trust may appoint a clerk to provide advice to the panel and parties to the review on procedure, law and statutory guidance on exclusions as outlined in the DfE's statutory guidance document 'Exclusion from maintained schools, academies and pupil referral units in England' 2022

16. Appointing an SEN expert

If requested by parents in their application for an independent review panel, the LA/Academy Trust must appoint an SEN expert to attend the panel and cover the associated costs of this appointment. This appointment must fulfil all points referred to in section 8.5 of Exclusion from maintained schools, academies and pupil referral units in England' 2017

It will be noted that Parents have a right to request the attendance of an SEN expert at a review, regardless of whether the school recognises that their child has SEN.

17. The duties of independent review panel members, the clerk and the SEN expert in the conduct of an independent review panel

Section 9 on Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England including Pupil Movement 2022 lays out the legal duties of all members of the independent review panel and will be followed by the school.

The Clerk and the Panel will have received training within the last 2 years.

18. The duties of independent review panel members in the conduct of a review panel

The role of the panel is to review the governing board's decision not to reinstate a permanently excluded pupil. In reviewing the decision, the panel will consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and people working at the school.

The panel will apply the civil standard of proof, rather than the criminal standard of 'beyond reasonable doubt'. Following the review, the panel will do one of the following:

- Uphold the decision.
- Recommend that the governing board reconsiders reinstatement.
- Quash the decision and direct that the governing board reconsiders reinstatement.

The panel's decision does not have to be unanimous and can be decided by a majority vote. It is binding on the pupil, parents, the governing board, headteacher and the LA/Academy Trust.

19. Subsequent school meeting of the Governors Discipline committee

- Where a panel directs or recommends that a governing board reconsiders their decision, the governing board must reconvene within 10 school days of being given notice of the panel's decision.
- If a governing board offers to reinstate the pupil within the specified timescale but the parents decline the offer, no readjustments can be made to the school's budget.
- The governing board must comply with any direction of the panel to place a note on the pupil's educational record.
- The parents, headteacher and local authority (or where relevant the home authority) must be informed of the governors' decision and the reasons for it immediately and in writing.
- If the governing board subsequently fails to reinstate the pupil, the IRP has then power to order that an adjustment of £4000 should be made to the school's budget, that would be in addition to any funding that would normally follow an excluded pupil (the only exception to this is where a school does not have a delegated or separate budget from which the readjustment can be made).

20. Criminal investigations

- The headteacher need not postpone taking a decision to exclude a pupil solely because a police investigation is underway, and/or any criminal proceedings may be brought. (Para 258 DFE Guidance)
- The headteacher will give particular consideration when deciding to exclude a pupil where evidence is limited by a police investigation, to ensure that any decision made is fair and reasonable.
- If the governing board is required to consider the headteacher's decision in these circumstances, they will not postpone the meeting and will make a decision based on the evidence available.

The headteacher will also take consideration Part Thirteen, **Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England including Pupil Movement 2022**: A non-statutory guide for headteachers.