



# Exclusion Policy

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**Approved by Diocese of Chichester Academy Trust**

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DCAT Non-statutory Policy	
DCAT Model Optional Policy	✓
Academy Policy	
Local Authority Policy	



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### 1. Aims

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

This policy is based on statutory guidance from the Department for Education: Exclusion from maintained schools, academies and pupil referral units (PRUs) in England.

It is based on the following legislation, which outline schools' powers to exclude pupils:

- Section 52 of the Education Act 2002, as amended by the Education Act 2011
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- Sections 64-68 of the School Standards and Framework Act 1998



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In addition, the policy is based on:

- a) Part 7, chapter 2 of the Education and Inspections Act 2006, which looks at parental responsibility for excluded pupils
- b) Section 579 of the Education Act 1996, which defines 'school day'
- c) 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

### 3. The decision to exclude

Only the headteacher, or acting headteacher, 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:

- a) In response to serious or persistent breaches of the school's behaviour policy, and
- b) If allowing the pupil to remain in school would seriously harm the education or welfare of others

Before deciding whether to exclude a pupil, either permanently or for a fixed period, the headteacher will:

- a) Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked
- b) Allow the pupil to give their version of events
- c) Consider if the pupil has special educational needs (SEN)

To support the decision making, both in substance and process, the headteacher uses a check list based on the Department for Education document: "Exclusion from maintained schools, Academies and pupil referral units in England" – appendix 2.

### 4. Definition

For the purposes of exclusions, school day is defined as any day on which there is a school session. Therefore, INSET or staff training days do not count as a school day.

### 5. Roles and responsibilities

#### 5.1 The headteacher

Informing parents

The headteacher will immediately provide the following information, in writing, to the parents of an excluded pupil:

- a) The reason(s) for the exclusion
- b) The length of a fixed-term exclusion or, for a permanent exclusion, the fact that it is permanent
- c) Information about parents' right to make representations about the exclusion to the governing board and how the pupil may be involved in this
- d) 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 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:

- a) The start date for any provision of full-time education that has been arranged
- b) The start and finish times of any such provision, including the times for morning and afternoon sessions, where relevant
- c) The address at which the provision will take place
- d) Any information required by the pupil to identify the person they should report to on the first day

Where this information on alternative provision is not reasonably ascertainable by the end of the afternoon session, it may be provided in a subsequent notice, but it will be provided no later than 48 hours before the provision is due to start. The only exception to this is where alternative provision is to be provided before the sixth day of an exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent.

#### Informing the local governing board and local authority

The headteacher will immediately notify the governing board and the local authority (LA) of:

- a) A permanent exclusion, including when a fixed-period exclusion is made permanent
- b) Exclusions which would result in the pupil being excluded for more than 5 school days (or more than 10 lunchtimes) in a term
- c) 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 board and LA once a term.

#### 5.2 The Local Governing Body

Responsibilities regarding exclusions is delegated to the Local Governing Body – Exclusion Committee consisting of at least 3 members.

The Local Governing Body – Exclusion Committee has a duty to consider the reinstatement of an excluded pupil (see section 6).

#### 5.3 The LA

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

#### 5.4 Informing DCAT

Exclusions and where possible, any likelihoods of exclusions should be reported to the CEO.

### 6. Considering the reinstatement of a pupil

Local Governing Body – Exclusion Committee will consider the reinstatement of an excluded pupil within 15 school days of receiving the notice of the exclusion if:

- a) The exclusion is permanent



- b) 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
- c) It would result in a pupil missing a public examination

If requested to do so by parents, Local Governing Body – Exclusion Committee will consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion if the pupil would be excluded from school for more than 5 school days, but less than 15, in a single term.

Where an exclusion would result in a pupil missing a public examination, Local Governing Body – Exclusion Committee will consider the reinstatement of the pupil before the will consider the exclusion and decide whether or not to reinstate the pupil.

Local Governing Body – Exclusion Committee can either:

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

In reaching a decision, Local Governing Body – Exclusion Committee 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', 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.

Local Governing Body – Exclusion Committee will notify, in writing, the headteacher, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, Local Governing Body – Exclusion Committee decision will also include the following:

- a) The fact that it is permanent
- b) Notice of parents' right to ask for the decision to be reviewed by an independent review panel, and:
  - i. The date by which an application for an independent review must be made
  - ii. The name and address to whom an application for a review should be submitted
  - iii. 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
  - iv. 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
  - v. Details of the role of the SEN expert and that there would be no cost to parents for this appointment
  - vi. That parents must make clear if they wish for an SEN expert to be appointed in any application for a review
  - vii. 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
- c) That if parents believe that the exclusion has occurred as a result of discrimination, they may make a claim under the Equality Act 2010 to the first-tier tribunal (special educational needs and disability), in the case of disability discrimination, or the county court, in the case of other forms of discrimination. A claim of discrimination made under these routes should be lodged within 6 months of the date on which the discrimination is alleged to have taken place

## **7. An independent review**

If parents apply for an independent review, the Trust will arrange for an independent panel to review the decision of the local 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 Local Governing Body – Exclusion Committee of its decision to not reinstate a pupil.



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A panel of 3 or 5 members will be constituted with representatives from each of the categories below. Where a 5-member panel is constituted, 2 members will come from the Local Governing Body – Exclusion Committee: school governors category and 2 members will come from the headteacher category.

- a) 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
- b) School governors who have served as a governor for at least 12 consecutive months in the last 5 years, provided they have not been teachers or headteachers during this time
- c) Headteachers or individuals who have been a headteacher within the last 5 years

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

- a) Are a director of the Trust or Local Governing Body – Exclusion Committee of the excluding school
- b) Are the headteacher of the excluding school, or have held this position in the last 5 years
- c) Are an employee of the Trust or the governing board, of the excluding school (unless they are employed as a headteacher at another school)
- d) Have, or at any time have had, any connection with the Trust school, governing board, parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality
- e) Have not had the required training within the last 2 years (see appendix 1 for what training must cover)

A clerk will be appointed to the panel.

The independent panel will decide one of the following:

- a) Uphold the governing board's decision
- b) Recommend that the governing board reconsiders reinstatement
- c) Quash the governing board's decision and direct that they reconsider reinstatement (only when the decision is judged to be flawed)

The panel's decision can be decided by a majority vote. In the case of a tied decision, the chair has the casting vote.

## **8. School registers**

A pupil's name will be removed from the school admissions register if:

- a) 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
- b) 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.

## **9. Returning from a fixed-term exclusion**

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

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



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- a) Agreeing a behaviour contract
  - b) Putting a pupil 'on report'
  - c) Internal isolation
  - d) Involvement of external agencies
  - e) Agreement of additional support such as play or other therapies

#### **10. Monitoring arrangements**

The Headteacher monitors the number of exclusions every term and reports back to the Local Governing Body – Exclusion Committee. They also liaise with the local authority to ensure suitable full-time education for excluded pupils.

This policy will be reviewed by Headteacher every year. At every review, the policy will be shared with the governing board.

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

This exclusions policy is linked to our:

- a) Behaviour policy
- b) SEN policy and information report



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

The Trust must ensure that all members of an independent review panel and clerks have received training within the 2 years prior to the date of the review.

Training must have covered:

- a) The requirements of the primary legislation, regulations and statutory guidance governing exclusions, which would include an understanding of how the principles applicable in an application for judicial review relate to the panel's decision making
- b) The need for the panel to observe procedural fairness and the rules of natural justice
- c) The role of the chair and the clerk of a review panel
- d) The duties of headteachers, governing boards and the panel under the Equality Act 2010
- e) 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



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## Appendix 2: Headteacher Exclusion Checklist

This checklist is based on the Department for Education document: “Exclusion from maintained schools, Academies and pupil referral units in England” (in use from September 2017). It is used as a good practice guide which references the guidance where appropriate.

‘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. Any exclusion of a pupil, even for short periods of time, must be formally recorded (para.14).

The law does not allow for extending a fixed-period exclusion or ‘converting’ a fixed-period exclusion into a permanent exclusion. In exceptional cases, usually where further evidence has come to light, a further fixed-period exclusion may be issued to begin immediately after the first period ends; or a permanent exclusion may be issued to begin immediately after the end of the fixed period. (para 3)

Where practical, head teachers should give pupils an opportunity to present their case (para.17). Interview the pupil, in the presence of another adult, taking notes of questions asked and answers given, using the pupil's own words.

If the pupil is able to do so, ask for a written account of the incident - if the pupil is too upset to do this at the time, ask for this as soon as possible after the incident - if the pupil refuses to give a written account, note the refusal.

Get written statements from adults or any other pupils involved in, or witnesses to, the incident - ensure these are done as soon after the incident as possible and that they are attributed, signed and dated - anonymity should not be routine nor automatic. (para.118 refers to witness statements for an Independent Review Panel but it would also be good practice for Governors Disciplinary hearings).

Take in to account any contributing factors that might be identified. For example, where the pupil has suffered bereavement, has mental health issues or has been subject to bullying (para.18).

Consider whether the pupil's behaviour was a serious or persistent breach of the school's discipline policies and (this is a two-part test which must be met for every exclusion) whether allowing the pupil to remain in school would affect the education or welfare of the pupil or of others in the school (para.16);

Consider whether the pupil has a Statement of SEN (paras.11,23-25), is a looked- after child (paras.23-25), is from an ethnic minority group (paras.21-22), or has any other issues which may have affected his/her behaviour on this particular occasion;

Consider whether there is any discrimination under the Equality Act 2010 (paras.9-11);

Consider the support given to the pupil by the school to address any behavioural issues (para.19);

Consider whether all reasonable alternative strategies to exclusion have been tried;

If appropriate, consult with others (e.g. SENDAR, Specialist Teaching Service, Social Workers, Exclusions officers or any other relevant professionals) but not anyone, such as a member of the school's governing body, who may later take part in the statutory review of the decision.

Once the decision to exclude has been made the head teacher:

must notify the parents, without delay and ideally by telephone, of the period of the exclusion and the reasons for it (para.26)

must provide information in writing to the parents, without delay, confirming the exclusion and providing all necessary information (paras.27-39)

must, for a permanent exclusion, tell the LA without delay (para.40), by



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completing the appropriate paperwork (including the requested supporting documentation) and sending to the Exclusions officers via email [exclusions@westsussex.gov.uk](mailto:exclusions@westsussex.gov.uk) must, for fixed period and permanent exclusions, ensure the exclusion is logged correctly on SIMS, giving details of start date, end date and reason

must inform the Local Governing Body of the exclusion so that any necessary meeting can be arranged within the statutory time limits (para.40 and para.55)

should make arrangements for the pupil to receive homework during the exclusion period and set these out in the exclusion letter (para.50-51) - it is good practice for there to be a named contact given in the exclusion letter so that parents know who to talk to if there are any problems with these arrangements

should, if a Governing Board meeting is necessary, prepare paperwork for the Clerk to circulate to all parties (para.61)

should consider arrangements for reintegrating the pupil at the end of the exclusion period, bearing in mind that conditions cannot be imposed on the return to school (para.13)

Model letters are used to ensure all required information is given to parents.

The following contact details may be useful.

ESCC Exclusions Team:

Contact the East Sussex School Appeal Service on:

Tel: 01273 482290 or

Email:- [schoolappeals@eastsussex.gov.uk](mailto:schoolappeals@eastsussex.gov.uk)

WSCC Exclusions Team:

Contact the West Sussex Access and Exclusion Team on:-

Tel: 01903 839667 or 033 0222 7619

Email: [ACDExclusions@westsussex.gov.uk](mailto:ACDExclusions@westsussex.gov.uk)

If a Local Governing Body meeting needs to be arranged, the Clerk must make all arrangements and liaise with all parties - it is important that the head teacher does not discuss the exclusion with governors who may be involved before the meeting.