



# **SCHOOL EXCLUSION POLICY**

**Approved by: Trustees**

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## **Exclusion Criteria**

Sometimes a pupil's behaviour will lead to a period of suspension from school or a permanent exclusion will sometimes be necessary as a last resort. This is to ensure that other pupils and teaching staff are protected from disruption and can learn in safe, calm and supportive environments. West Norfolk Academies Trust conforms to the Department of Education Guidance entitled '**Statutory Guidance on Suspensions and Exclusions (July 2022)**' when making decisions on suspensions and exclusions. A copy of this document can be downloaded from the Department of Educational website:-

<https://www.gov.uk/government/publications/school-exclusion>

Our Exclusion Policy should be read in context with the schools Behaviour policy and SEND policy.

## **Legal and Regulatory Framework**

This policy is compliant with the following legislation and statutory guidance:

- 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;
- 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;
- Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement, July 2022);
- Behaviour in Schools Advice for headteachers and school staff, July 2022.
- Mental Health and Behaviour in Schools, November 2018;
- Understanding your data: a guide for school governors and academy trustees, September 2021.

## **What is an Exclusion?**

Exclusion is a disciplinary sanction, and means that a pupil is not allowed on the school premises for the duration of the Exclusion.

A pupil may be excluded for one or more fixed periods up to a maximum of 45 school days in a single academic year, or permanently. A pupil can also be excluded for lunchtimes.

There are two types of Exclusion:

- Suspensions (previously call fixed-term exclusions)
- Permanent Exclusion

## **Suspensions**

This means that a pupil is not allowed in school for a specified number of days because they have breached the school's behaviour policy. Pupils who misbehave at lunchtime may be suspended for lunchtime only. Each lunchtime suspension counts as half a day.

Whenever a Headteacher suspends a pupil of compulsory school age they must, without delay, notify parents/carers of the period of the suspension and the reasons for it. They must also notify the Local Authority, Social Services and other agencies involved with the pupil where appropriate. In addition, the Headteacher must notify the Local Governing Body where there is a legal duty to do so and where any suspension would result in the pupil being suspended for more than five school days (ten lunchtimes) in a term.

The pupil is not allowed on the school site for a definite period; however, this does not have to be a continuous period. This might apply if a pupil attends college or other off-site provision for part of the week.

When a pupil is suspended, the school must set and mark work for the first five days of the suspension and from the sixth day must provide a full-time education provision. Reasonable adjustments will be made for those pupils with special educational needs.

- During the suspension, the pupil must not be in a public place during school hours and the parents/carers are responsible for the whereabouts of the pupil.
- On returning to school, there will be a re-integration meeting, in which all those concerned can discuss the best way forward for the pupil.

The school cannot extend a suspension or 'convert' a suspension into a permanent exclusion. In exceptional cases, usually where further evidence has come to light, a further suspension 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 suspension.

In exceptional circumstances, pupils may receive a suspension prior to a permanent exclusion. For each decision, the Headteacher will send the relevant letter, setting out the rights of parents. A suspension cannot be converted into a permanent exclusion and so any subsequent permanent exclusion would be a fresh decision due to commence immediately after the suspension had ended. Exceptional circumstances may include where further evidence has come to light or where the incident was serious and time is required to fully investigate the circumstances and consider alternatives.

## **Permanent Exclusions**

This is when a pupil is permanently excluded for a serious breach or persistent breaches of the school's behaviour policy and if their being in school would harm the education or welfare of themselves or of others. Permanent exclusion should only be used as a last resort and it means that the pupil would no longer be allowed to attend the school.

- For the first five days, the parents/carers are responsible for the pupil's whereabouts and he/she must not be in a public place during school hours.
- For the first five days, the school should set work and provide resources for the pupil.
- Any appropriate referrals to support services or notifying key workers (such as a pupil's social worker) will also be considered.
- The Local Authority must arrange suitable full-time education for the pupil to begin no later than the sixth day of the exclusion.
- Where a pupil has an EHCP, the Local Authority must ensure that an appropriate full-time placement is identified in consultation with the parents/carers, who retain their rights to express a preference for a school that they wish their pupil to attend, or make representations for a placement in any other school.

The school's Local Governing Body will meet:-

- to decide whether or not to reinstate a pupil and if the Headteacher decision to exclude was justified based on the evidence.
- For parents/carers and the pupil to have an opportunity to present their point of view, regarding the exclusion.

If the permanent exclusion is upheld by the members of the Local Governing Body, the parents/carers have the right to appeal to an Independent Review Panel.

When establishing the facts in relation to an exclusion decision, the Headteacher 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'.

## **Pupils with disabilities and Special Educational Needs (SEND) including those with Education, Health and Care plans (EHCP)**

There are certain factors that should be taken into consideration for pupils who display disruptive behaviour that is as a result of their Special Educational Need (SEND).

Schools should engage proactively with parents/carers in supporting the behaviour of pupils with additional needs. Early intervention to address underlying causes of disruptive behaviour should include

- An assessment of whether appropriate provision is in place to support any SEND or disability that a pupil may have.
- The Headteacher should also consider the use of a multi-agency assessment for pupils who demonstrate persistent disruptive behaviour.

- The Headteacher and Local Governing Body must take account of their statutory duties in relation to SEND when administering the exclusion process. This includes having regard to the SEND Code of Practice.

Where a school has concerns about the behaviour, or risk of exclusion, of a pupil with additional needs, a pupil with an Educational Health Care Plan (EHCP) it should, in partnership with others (including the Local Authority as necessary) consider what additional support or alternative placement may be required.

The decision to exclude a pupil must be lawful, reasonable and fair. Schools have a statutory duty under the Equality Act 2010 not to discriminate against pupils on the basis of protected characteristics, such as disability.

### **Pupils who have a social worker, including looked-after children, and previously looked-after children**

For the majority of children who have a social worker, this is due to known safeguarding risks at home or in the community.

For Children with a social worker, education is an important protective factor, providing a safe space for children to access support, be visible to professionals and realise their potential.

When children are not in school, they miss the protection and opportunities it can provide, and become more vulnerable to harm. However, headteachers should balance this important reality with the need to ensure calm and safe environments for all pupils and staff, so should devise strategies that take both of these aspects into account.

Where a pupil has a social worker, e.g., because they are the subject of a Child in Need Plan or a Child Protection Plan, and they are at risk of suspension or permanent exclusion, the headteacher should inform their social worker, the Designated Safeguarding Lead (DSL) and the pupil's parents to involve them all as early as possible in relevant conversations.

Where a looked-after child (LAC) is likely to be subject to a suspension or permanent exclusion, the Designated Teacher (DT) should contact the local authority's Virtual School Head (VSH) as soon as possible. The VSH, working with the DT and others, should consider what additional assessment and support need to be put in place to help the academy address the factors affecting the child's behaviour and reduce the need for suspension or permanent exclusion. Where relevant, the school should also engage with a child's social worker, foster carers, or children's home workers.

All looked-after children should have a Personal Education Plan (PEP) which is part of the child's care plan or detention placement plan. This should be reviewed every term and any concerns about the pupil's behaviour should be recorded, as well as how the pupil is being supported to improve their behaviour and reduce the likelihood of exclusion.

Where previously looked-after children face the risk of being suspended or permanently excluded, the school should engage with the child's parents and the school's DT. The school may also seek the advice of the VSH on strategies to support the pupil.

## Cancelling Exclusions

The headteacher may cancel an exclusion that has already begun, but this should only be done where it has not yet been reviewed by the pupil discipline committee. Where an exclusion is cancelled, then:

- Parents, the governors, and the local authority should be notified without delay and, if relevant, the social worker and Virtual School Head;
- 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 governors once per term on the number of exclusions which have been cancelled. This should include the circumstances and reasons for the cancellation enabling governors to have appropriate oversight and;
- The pupil should be allowed back into the school.

## The Local Governing Body's Role

The Local Governing Body has a duty to consider parents/carers' representations about a suspension or permanent exclusion.

The Local Governing Body must consider the reinstatement of a suspended or permanently excluded pupil within 15 school days of receiving notice of a suspension or permanent exclusion from the headteacher if:

- The exclusion is permanent;
- It is a suspension which would bring the pupil's total number of school days of exclusion to more than 15 in a term; or
- It would result in a pupil missing a public examination or national curriculum test.

If a pupil would be suspended from school for more than five school days, but not more than 16, in a single term, and requested to do so by the parents/carers, the Local Governing Body must meet within 50 school days after they receive the parent's request. Parents do not need to be present when the governors meet.

In the case of a suspension which does not bring the pupil's total number of days of suspension to more than five in a term, the governing body must consider any representations made by parents/carers, but **it cannot direct reinstatement as it does not have the power to overturn the headteacher's decision** and is not required to arrange a meeting with parents/carers. In this case they should consider whether it would be appropriate to place a note of their findings on the pupil's educational record.

When establishing the facts in relation to a suspension or permanent 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'.

Excluded pupils are encouraged to participate at all stages of the exclusion process, taking into account their age and understanding.

In the light of their consideration, the Local Governing Body may (where applicable):

- uphold a suspension or permanent exclusion; or
- direct reinstatement of the pupil immediately or on a particular date.

Where reinstatement is not practical because, for example, the pupil has already returned to school following the expiry of a suspension or the parents/carers make clear they do not want their pupil reinstated, the Local Governing Body must, in any event, consider whether the Headteacher's decision to exclude the pupil was justified based on the evidence.

In reaching a decision on whether or not to reinstate a pupil, the Local Governing Body should consider whether the decision to exclude the pupil was lawful, reasonable and procedurally fair, taking account of the Headteacher's legal duties.

### **Independent Review Panel**

If applied for by parents/carers within the legal time frame, an independent review panel hearing will be arranged to review the decision of a governing body not to reinstate a permanently excluded pupil.

The legal time frame for an application is:

- within 15 school days of notice being given to the parents/carers by the Local Governing Body of their decision to uphold a permanent exclusion 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.

If requested by parents/carers in their application for an independent review panel, the West Norfolk Academies Trust must appoint a SEND expert to attend the panel and cover the associated costs of this appointment. The SEND expert's role is like that of an expert witness, providing impartial advice to the panel on how special educational needs might be relevant to the exclusion, for example, whether the school acted reasonably in relation to its legal duties when excluding the pupil. Parents/carers have a right to request the attendance of a SEND expert at a review, regardless of whether the school recognises that their pupil has SEND.

The role of the panel is to review the governing body's decision **not to reinstate a permanently excluded pupil**. In reviewing the decision, the panel must 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 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'.

Following its review, the panel can decide to:

- uphold the permanent exclusion decision;

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

An independent review panel does not have the power to direct a Local Governing Body to re-instate a permanently excluded pupil. However, where a panel decides that a Local Governing Body's decision is flawed when considered in the light of the principles applicable on an application for judicial review, it can direct a Local Governing Body to reconsider its decision.

If your child is still permanently excluded parents/carers can ask the [Education Funding Agency](#) to look at whether your case was handled properly. They can't overturn the exclusion.