



## **Exclusion Policy**

<b>Formally adopted by the Trust</b>	
<b>Date:-</b>	<b>March 2020</b>
<b>Chair of Trustees:-</b>	<b>Mark Jeffries</b>
<b>Last updated:-</b>	<b>March 2020</b>

## Exclusion Policy

### Roles and Accountabilities

Evolution Academy Trust is accountable for all policies across its Schools. All policies whether relating to an individual Schools or the whole Trust will be written and implemented in line with our ethos and values as articulated in our prospectus.

A Scheme of Delegation for the Academy Trust sets out the responsibilities of the Local Governing Body and Head Teacher. The Head Teacher of each school is responsible for the implementation of all policies of the Academy Trust.

All employees of the Academy Trust are subject to the Trust's policies.

### 1. 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 *Exclusion from maintained schools, academies and pupil referral units in England (September 2017)*. 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.

### 2. Principles

Exclusion is a sanction used by the school only in cases deemed as serious breaches of the school Behaviour Policy. A pupil may be at risk of exclusion from school for (this list is not exhaustive):

- Verbal or physical assault of a pupil or adult;
- Persistent and repetitive disruption of lessons and other pupils' learning;
- Extreme misbehaviour which is deemed outside the remit of the normal range of sanctions.
- Behaviour that causes danger to the school community.

In discharging their duties, the Headteacher and Governors will have regard to the Department for Education guidance "Exclusion from maintained schools, Academies and pupil referral units in England" which came into force on 1st September 2017 and any subsequent DfE updates to this guidance. They will also take into account their statutory duties in relation to special educational needs including having regard to the SEN Code of Practice.

Before excluding a pupil, in most cases a range of alternative strategies will have taken place. Where a one-off incident of sufficient gravity has taken place, this may not apply.

A Fixed Term Exclusion from the school can only be authorised by the Headteacher or the Deputy Headteacher acting on delegated authority. If none are available to authorise the exclusion a decision should be deferred until the opportunity for authorisation is available. In the case of a Permanent Exclusion this can only be authorised by the Headteacher.

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The school seeks to reduce the number of incidents leading to exclusions by promoting a positive atmosphere of mutual respect and discipline within the school. The school regularly monitors the number of Fixed Term Exclusions to ensure that no group of pupils is unfairly disadvantaged through their use and that any underlying needs of individuals are being fully met.

A decision to exclude a pupil will only be taken:

- In response to serious breaches of the school's Behaviour Policy if allowing the pupil to remain in the school would seriously harm the learning or welfare of the pupil, other pupils or staff in the School
- In cases where there has been a major breach of normal expectations of conduct and/or a breach of the criminal law
- As per paragraph 2.1

### 3. Responsibilities of the Headteacher

The Headteacher alone (or his/her designate, if s/he is absent) has the power to exclude pupils. However, where practical, the Headteacher should give the pupil an opportunity to present their case before taking the decision to exclude.

Whilst an exclusion may still be an appropriate sanction, the Headteacher should take account of any contributing factors that are identified after an incident of poor behaviour has occurred. For example, where it comes to light that the pupil has suffered bereavement, has mental health issues or has been subject to bullying. The decision to exclude must be lawful.

In considering the exclusion of a pupil the Headteacher should ensure that the following range of activities are carried out:

- Undertake a thorough investigation
- Consider all the relevant facts and firm evidence to support the allegations
- Take into account the school's Behaviour Policy, the Single Equality Scheme and any other relevant policies
- Check whether an incident appeared to be provoked by racial or sexual harassment
- Ensure that all pupils involved have the opportunity to give their version of events.
- Consult other people or agencies except where they may be involved in any review of the exclusion.
- Ensure time has been given to addressing and supporting the pupil's individual problems within the capabilities of School.

Before deciding to exclude a pupil permanently the Headteacher will first try a range of strategies as outlined in the Behaviour Policy, including fixed term exclusion. Only when other strategies have been tried without success will the Headteacher consider permanent exclusion. Except, or notwithstanding, where a one-off incident of sufficient gravity has taken place. There are occasions when the severity of the offence will merit permanent exclusion, even when there has been no record of poor behaviour.

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The Headteacher may exclude a pupil for up to 45 school days in any academic year. Any exclusion beyond 45 school days will be permanent. However, before that point is reached the Headteacher will have held discussions with the Fair Access Panel regarding alternative placements (both internal and external to the Trust) or a managed move.

The Headteacher will aim for the shortest possible period of exclusion but however brief an exclusion plan will be made to:

- enable the pupil to continue their education;
- use the time to address the pupil's problems; examine the process of reintegration.

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 proof 'beyond all reasonable doubt'.

The Headteacher may withdraw an exclusion that has not been reviewed by the governing body.

### **4. Informing parent(s)/carer(s) about the exclusion**

Parents/carers will be notified as soon as possible of the decision to exclude a pupil 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; the letter should also enclose a copy of the school's Exclusion Policy, or guidance of where to access the policy.

The letter will include the following information:

- the reason(s) for the exclusion;
- the period of a fixed-period exclusion or, for a permanent exclusion, the fact that it is permanent;
- parent's right to make representations about the exclusion to the governing body and how the pupil may be involved in this;
- how any representations should be made; and
- where there is a legal requirement for the governing body to consider the exclusion, that parents have a right to attend a meeting, to be represented at that meeting (at their own expense) and to bring a friend.

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.

A pupil 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.

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The nominated governor, Local Authority Inclusion Officer/Single Point of Contact and relevant school staff will be notified of all Permanent Exclusions the same day of the production of the exclusion letter, which they will receive a copy of; it will clearly outline the reasons for the exclusion.

### **5. Arranging education for pupils who have been excluded**

For a fixed period, exclusion of more than five school days, or consecutive fixed period exclusions totalling more than five days, the school will arrange suitable full time education for any pupil of compulsory school age. This provision will begin no later than the sixth day of the exclusion.

For permanent exclusions, the local authority will arrange suitable full-time education for the pupil to begin no later than the sixth day of the exclusion.

In addition, where a pupil has a statement of SEND/EHCP, the local authority must ensure that an appropriate full-time placement is identified in consultation with the parents, who retain their rights to express a preference for a school that they wish their child to attend, or make representations for a placement in any other school.

Provision will not be arranged by either the school or local authority for pupils in the final year of compulsory education who do not have any further public examinations to sit.

For exclusions of less than five days, the school will take reasonable steps to set and mark work for pupils.

### **6. Pupils returning from a Fixed Term Exclusion**

All pupils returning from a Fixed Term Exclusion are required to attend a reintegration meeting, accompanied by a parent. This meeting will seek to establish practical ways in which further exclusion can be avoided and behaviour modified to acceptable standards in partnership between pupil, parent and school.

In some incidents, on the return from a Fixed Term Exclusion pupils will be required to attend the behaviour centre within the school (if applicable) so that a phased reintegration of the pupil can take place.

### **7. Appeals**

All correspondence from schools regarding an exclusion will inform parents of their right to make representations to the Governing Body against the decision to exclude. This procedure is clearly set out in the statutory guidance.

The person who should be contacted to initiate an appeal is the Clerk to the Governors.

### **8. Responsibilities of the governing body**

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- The Governing Body will establish a nominated governor and when the need arises an Independent Review Panel.
- The Governing Body will establish a Discipline Committee.
- The Governors do not have the right to exclude a pupil.
- Governors will review the use of exclusion in a School regularly.

In the case of a fixed term exclusion which does not bring the pupil's total number of days of exclusion to more than fifteen in a term, the governing body must consider any representations made by parents, but it cannot direct reinstatement and is not required to arrange a meeting with parents.

## 9. Informing the governors

The Headteacher will inform the nominated governor of:

- All permanent exclusions.
- All exclusions which result, separately or in total, in the pupil missing more than fifteen school days in any one term, or which deny pupils the chance to take a public examination.

## 10. The role of the governors in exclusion cases

The Discipline Committee will consist of no less than three Governors who will review the use of exclusion within the School, including considering the views of the Parent(s)/carer(s) of an excluded pupil, and deciding whether or not to confirm exclusions of more than five academy days or those where a pupil would miss an opportunity to take a public examination.

The Governing Body will appoint a clerk to the Discipline Committee to provide advice on the exclusions process and to handle the administrative arrangements for considering exclusions.

If the exclusion is for fifteen school days or fewer the Discipline Committee will not direct reinstatement but will consider any statement from the parent(s)/carer(s). If the exclusion causes the pupil to miss sitting a public examination the Discipline Committee will meet before the public examination. Where a public examination is concerned, if it is not practical for the Discipline Committee to meet, the Chair of the Committee will consider the exclusion. Alternative arrangements to allow an excluded pupil to take public examinations will be considered.

The governing body discipline committee must meet in cases of:

- Permanent exclusions
- Exclusions which would result in the loss of an opportunity to take any public examination.
- All fixed term exclusions of pupils who have been excluded for more than fifteen school days in a term.

The governing body discipline committee must meet to:

- Consider the circumstances in which the pupil was excluded;

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- Consider any representations about the exclusion made by the parent;
- Consider whether the pupil should be reinstated immediately, reinstated by a particular date or not reinstated.

For permanent exclusion, the governing body discipline committee should normally satisfy itself that all possible strategies to improve a pupil's behaviour were tried without success; strategies should include those in DfE guidance, including a Pastoral Support Programme. For children with statements of SEND/EHCP, revising the statement might be better than resorting to exclusion.

For permanent exclusions the governing body discipline committee will consider the exclusion and decide whether the pupil should be reinstated. Such consideration will take account of the pupil's disciplinary record and the likely impact of their continued attendance.

The governing body discipline committee may not attach conditions to the reinstatement of a pupil.

If the governing body discipline committee upholds the Headteachers decision to exclude a pupil permanently, it will write without delay to the parent(s)/carer(s) giving the reasons for the decision and all other guidance as set out in *The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012*.

If the governing body discipline committee upholds a decision to exclude a pupil permanently it will notify the Local Authority in writing of this decision within one school day of the hearing.

The governing body must ensure that a pupil's name is removed from the school admissions register if:

- 15 school days have passed since the parents were notified of the governing body'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 panel has been made within 15 school days, the school must wait until the review has been determined, or abandoned, and until the governing body has completed any reconsideration that the panel has recommended or directed it to carry out, before removing a pupil's name from the register. Where a pupil's name is to be deleted from the school admissions register because of a permanent exclusion the school must make a return to the local authority. The return must include all the particulars which were entered in the admission register, the address of any parent with whom the pupil normally resides and the grounds upon which their name is to be deleted from the admissions register (i.e. permanent exclusion). This return must be made as soon as the grounds for deletion is met and no later than the deletion of the pupil's name.

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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) of County court has the power to direct that the pupil should be reinstated.

### 11. After the meeting – permanent exclusions

A note of the governing body committee views on the exclusion shall normally be placed on the pupil's record with a copy of the Headteachers exclusion letter. Parent(s)/carer(s) whose child is excluded permanently from the school have the right to appeal against the governing body discipline committee decision to uphold the exclusion. This should follow statutory guidelines as set out in *The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012*.

### 12. Independent Review Hearings

The legal time frame for an application is:

- within 15 school days of notice being given to parents by the governing body of its decision not to reinstate a permanently excluded pupil; 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 Trust will arrange for an Independent Review Panel hearing to review the decision of a governing body not to reinstate a permanently excluded pupil. Any application made outside the legal time frame will be rejected by the Trust. Parents may request an independent review panel even if they did not make a case to, or attend the meeting at which the governors made their decision

All arrangements for the Independent Review hearing will be made by the Trust or the organisation commissioned by the trust to manage this process on their behalf and this includes:

- Establishing an Independent Review Panel which complies with DfE regulations
- Agreeing suitable date, time and independent venue for the hearing to take place (hearings will not take place at the excluding academy)
- Appointing an independent Clerk to administer the process including the circulation of the meeting pack, take notes of the hearing and sending out the decision letter (the Clerk to the excluding school governing body will not be eligible to perform this role)
- The Clerk may also provide advice to the panel & parties to the review on procedure, legislation and statutory guidance on exclusions
- Where it has been requested, arrange for a SEN expert to attend the review hearing

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



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people working at the school. The panel must also apply the civil standard of proof “on the balance of probabilities” rather than the criminal standard of “beyond reasonable doubt”

Following its review the panel can decide to:

- Uphold the exclusion decision
- Recommend that the governing body reconsiders their decision or,
- Quash the decision and direct the governing body to consider the exclusion again

The decision of the Independent Review Panel is binding on the; pupil, parents, governing body, Local Authority and the Trust.

New supporting evidence may be presented to the panel but the School may not introduce new reasons for the exclusion and panels will disregard any new reasons that are introduced.

Where present the panel must seek and have regard to the SEN expert’s view of how SEN might be relevant to the pupil’s exclusion.

Members of the school Permanent Exclusion Discipline Committee and school presenting team will be invited to attend the hearing to present their case to the panel.

As with the governing body exclusion hearing, parents will be invited to attend and may bring a friend, if they are not present the case will be heard in their absence.

Where a panel quashes the governing body’s decision and directs it to reconsider an exclusion it has the power to order that the school makes a payment of £4000 to the Local Authority if the governing body does not offer to reinstate the pupil within 10 School days of receiving notice of the panel’s decision. (This sum would be in addition to any budget that would normally follow a pupil to a new school.)

A review cannot continue if the panel no longer has representation from the required categories of panel members. In this event the panel will be adjourned until the number can be restored.

Following the review, the panel must issue written notification to all parties without delay. This notification must include: -

- The panel’s decision and the reason for it
- Where relevant, details of any financial payment to be made if the governing body subsequently decides not to offer to reinstate a pupil
- Any information that must be recorded on the pupil’s educational record to reflect the decision
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If the panel upholds the decision, the Clerk will immediately notify the local authority and if the pupil lives outside the Local Authority of the academy, the pupil's "home local authority".

### 13. Relationship to other school policies

The Exclusion Policy should be read in tandem with the school's Behaviour Policy as well as other relevant school policies, particularly the Special Educational Needs Policy and the Single Equality and Community Cohesion Scheme. It also has a close inter-relationship with the Attendance Policy.

### 14. Monitoring and review

The impact of this policy will be reviewed by the Local Governing Body or equivalent body.

The Headteacher will provide them with regular monitoring reports which will help it to evaluate the effectiveness of the policy and procedures.

The policy and procedures will be reviewed and amended in the light of such evaluation and in consultation with representatives of all key stakeholders.

### Appendix to the Policy

In the case of all Permanent Exclusions/15 days FTE governor disciplinary meetings the school must provide the following information to all parties at the permanent exclusion hearing so that a complete judgment can be made to uphold or quash the decision.

This information should be in a written pack received by all members of the hearing five working days before the hearing date (sent through registered post). The information to be included in this pack include:

- Copy of letter advising parent/carer of permanent exclusion
- Letter to parent confirming date and time of Governors Disciplinary Hearing together with:-
- Agenda with names of Governors and evidence sent to all parties attending the Governors Meeting send to all parents as defined in law
- Headteachers report giving details of the reason for the permanent exclusion including a summary of time at the school
- Witness statements from any staff or student's witnesses regarding any one off incident
- Pupils views - interview with the pupil and their views
- Record of intervention strategies, with outcomes and impacts
- Any copies of PSP, IEP, Behaviour Support Plan and details of any other agencies that have been involved. If there is more than one incident that behaviour records highlighting behaviour over time.
- Previous exclusion letters including information on fixed term exclusions and letters
- Risk assessment

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- Short Stay School for Norfolk referral with relevant risk assessment
- Copy of e mail so that the Norfolk Single Point of Contact is aware of the exclusion
- Information on Family Support Plan offered and any other support
- Timetable
- Attendance herringbone for the present academic year
- Minutes from previous governor disciplinary meetings (if appropriate)
- Behaviour Policy
- Exclusions Policy

In the case of Permanent Exclusions the following agenda must be used as the standard process for meetings:

The Governing Body to consider the permanent/fixed term exclusion of **[Pupil's name]** will be held on **[Date of the Meeting and Time]** and **[Venue]** please also include Governors Names:

### Agenda

1. **Welcome and introductions**
2. **Explanation of procedure**
3. **The School's case – evidence for exclusion**
4. **Questions to the School – Parties rights of question the School**
5. **The Parent/Pupil's Case**
6. **Questions to the Parent/Pupil – Parties rights to question Parents/Pupil**
7. **Questions/Representations from LA**
8. **Closing – Checking all parties have had a chance to say what they wanted to say**
9. **Explanation of how and when parties will be notified of the decision**
10. **Parent/Carer/Pupil, School, Local Authority leaves the room.**