

# Exclusions

## Policy

2023/2024

PARTNERSHIPS | OPPORTUNITY | INTEGRITY | EQUITY | EXCELLENCE | PEOPLE-CENTRED

Date of Approval:	October 2023
Approved by:	Trust Board Performance Committee
Date of next Review:	October 2024



**Consilium**  
**Academies**  
*Enriching Lives, Inspiring Ambitions*

## 1. Aims

Consilium Academies aim to ensure that, within each of our schools and academies:

- The exclusions process is applied fairly and consistently
- The exclusions process is understood by the Local Academy Board members, staff, parents, and students
- Students in school are safe and happy
- Students 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: Suspension and permanent exclusion from maintained schools, academies and pupil referral units in England, including pupil movement.

It is based on the following legislation, which outline schools' powers to exclude students: Section 52 of the Education Act 2002, as amended by the Education Act 2011.

The School Discipline (Student Exclusions and Reviews) (England) Regulations 2012. In addition, the policy is based on: Part 7, chapter 2 of the Education and Inspections Act 2006, which looks at parental responsibility for excluded students. Section 579 of the Education Act 1996, which defines 'school day'

The Education (Provision of Full-Time Education for Excluded Students) (England) Regulations 2007, as amended by The Education (Provision of Full-Time Education for Excluded Students) (England) (Amendment) Regulations 2014. This policy complies with our funding agreement and Articles of Association.

## 3. The decision to exclude

Only the headteacher, or acting headteacher, can exclude a student from school. A permanent exclusion will be taken as a last resort.

The Trust is aware that off-rolling is unlawful. Ofsted defines off-rolling as:

*"...the practice of removing a student from the school roll without a formal, permanent exclusion or by encouraging a parent to remove their child from the school roll, when the removal is primarily in the interests of the school rather than in the best interests of the student."*

We are committed to following all statutory exclusions procedures to ensure that every child receives an education in a safe and caring environment. A decision to exclude a student will be taken only:

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

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

- Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked
- Allow the student to give their version of events
- Consider if the student has special educational needs (SEN)
- Consult with the Director of Education to discuss all the evidence gathered

## 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 student:

- The reason(s) for the exclusion
- The length of a fixed-term exclusion or, for a permanent exclusion, the fact that it is permanent
- Information about parents' right to make representations about the exclusion to the Local Academy Board and how the student may be involved in this
- How any representations should be made
- Where there is a legal requirement for the Exclusion Hearing Panel to meet to consider the reinstatement of a student, and that parents have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a companion should they choose to do so

The headteacher will also notify parents by the end of the afternoon session on the day their child is excluded that for the first 5 school days of an exclusion, or until the start date of any alternative provision where this is earlier, parents are legally required to ensure that their child is not present in a public place during school hours without a good reason. Parents may be given a fixed penalty notice or prosecuted if they fail to do this.

If alternative provision is being arranged, the following information will be included when notifying parents of an exclusion:

- The start date for any provision of full-time education that has been arranged
- The start and finish times of any such provision, including the times for morning and afternoon sessions, where relevant
- The address at which the provision will take place
- Any information required by the student 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 Academy Board and Local Authority

The headteacher will immediately notify the Local Academy Board and the local authority (LA) of:

- A permanent exclusion, including when a fixed-period exclusion is followed by a decision to permanently exclude a student
- Exclusions which would result in the student being excluded for more than 5 school days (or more than 10 lunchtimes) in a term
- Exclusions which would result in the student missing a public examination
- For a permanent exclusion, if the student lives outside the Local Authority area in which the school is located, the headteacher will also immediately inform the student's 'home authority' of the exclusion and the reason(s) for it without delay.

For all other exclusions, the headteacher will notify the Local Academy Board and Local Authority once a term. Where applicable, the headteacher will also inform the child's social worker and Virtual School Headteacher.

### 5.2 The Local Academy Board

Responsibilities regarding exclusions are delegated to an Exclusion Hearing Panel of the Local Academy Board consisting of at

least three members. The Academy may co-opt a Local Academy Board member from another Academy within the Trust to ensure the Exclusion Hearing Panel is quorate where required.

The Exclusion Hearing Panel of the Local Academy Board has a duty to consider the reinstatement of an excluded student (see section 6).

Within 14 days of receipt of a request, the Local Academy Board will provide the secretary of state with information about any exclusions in the last 12 months.

For a fixed-period exclusion of more than 5 school days, the Local Academy 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.

### **5.3 The Local Authority**

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

## **6. Considering the reinstatement of a student**

The Exclusion Hearing Panel will consider the reinstatement of an excluded student within 15 school days of receiving the notice of the exclusion if:

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

The requirements are different for fixed-period exclusions where a student would be excluded for more than five but less than 15 school days in the term. In this case, if the parents make representations, the Panel must consider within 50 school days of receiving the notice of exclusion, whether the excluded student should be reinstated. In the absence of any representations from the parents, the governing board is not required to meet and cannot direct the reinstatement of the student.

Where an exclusion would result in a student missing a public examination, the Exclusion Hearing Panel will consider the reinstatement of the student before the date of the examination. If this is not practicable, the Panel will consider the exclusion and decide whether or not to reinstate the student.

### **The Exclusion Hearing Panel can either:**

Decline to reinstate the student, or direct the reinstatement of the student immediately, or on a particular date  
In reaching a decision, the Exclusion Hearing Panel 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 student's educational record.

The Exclusion Hearing Panel will notify, in writing, the headteacher, parents and the Local Authority of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the Panel's decision will also include the following: The fact that it is permanent.

Notice of parents' right to ask for the decision to be reviewed by an independent review panel, and:

- The date by which an application for an independent review must be made
- The name and address to whom an application for a review should be submitted
- That any application should set out the grounds on which it is being made and that, where appropriate, reference to how the student's SEN are considered to be relevant to the exclusion
- That, regardless of whether the excluded student has recognised SEN, parents have a right to require the Trust to appoint an SEN expert to attend the review
- Details of the role of the SEN expert and that there would be no cost to parents for this appointment
- That parents must make clear if they wish for an SEN expert to be appointed in any application for a review
- That parents may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents may also bring a friend to the review

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 six 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 Clerk to the Trust Board will arrange for an independent panel to review the decision of the Exclusion Hearing Panel not to reinstate a permanently excluded student.

Applications for an independent review must be made within 15 school days of notice being given to the parents by the Exclusion Hearing Panel of its decision to not reinstate a student.

A panel of three members will be constituted with representatives from each of the categories below:

- 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.
- School governors/Local Academy Board members who have served in this capacity for at least 12 consecutive months in the last five years, provided they have not been teachers or headteachers during this time.
- Headteachers or individuals who have been a headteacher within the last five years.
- Where a five-member panel is constituted, two members will come from the Local Academy Board members category and two members will come from the headteacher category.

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

- Are a Member or Director of the Trust, or Local Academy Board of the excluding school
- Are the headteacher of the excluding school, or have held this position in the last five years
- Are an employee of the Trust or the Local Academy Board, of the excluding school (unless they are employed as a headteacher at another school)
- Have, or at any time have had, any connection with the Trust, school, Local Academy Board, parents or student, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality
- 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 review panel will decide one of the following:
  - Uphold the Local Academy Board's decision
  - Recommend that the Local Academy Board reconsiders reinstatement
  - Quash the Local Academy 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 student's name will be removed from the school admissions register if:

- 15 school days have passed since the parents were notified of the exclusion panel's decision to not reinstate the student and no application has been made for an independent review panel, or
- The parents have stated in writing that they will not be applying for an independent review panel
- Where an application for an independent review has been made, the Local Academy Board will wait until that review has concluded before removing a student's name from the register.
- Where alternative provision has been made for an excluded student and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.
- Where excluded students 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 student, parents, a member of senior staff and other staff, where appropriate.

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

- Reflection on the reasons for the original exclusion
- Review of school behaviour expectations in line with the Behaviour Policy
- Agreeing a behaviour contract
- Review of the pastoral support plan (including external agency support) – making any necessary amendments
- Utilising the report stage of the Behaviour Policy
- Internal isolation – if deemed the most appropriate course of action

\*A student's return to school following exclusion cannot be delayed for the purposes of holding the reintegration meeting.

## 10. Monitoring arrangements

The Head teacher monitors the number of exclusions every term and reports back to the Local Academy Board. They also liaise with the Local Authority to ensure suitable full-time education for excluded students.

This policy will be reviewed by the Trust Board every two years. At every review, the policy will be approved by the Trust Board and shared with each of the Local Academy Boards for adoption.

## Appendix 1: Independent review panel training

The Trust will 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 will cover:

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.

The need for the panel to observe procedural fairness and the rules of natural justice. The role of the Chair and the Clerk of a review panel.

The duties of headteachers, Local Academy Boards and the panel under the Equality Act 2010.

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.

