

Handsworth Grange Community Sports College

Exclusions Policy



Current Policy as of: September 2020

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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 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: [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 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
- Sections 64-68 of the School Standards and Framework Act 1998

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 \(Provision of Full-Time Education for Excluded pupils\) \(England\) 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 or the designate if they are absent, can exclude a student from school. A permanent exclusion will be taken as a last resort.

Our school 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

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 student has suffered bereavement, has mental health issues or has been subject to bullying.

Allow the student to give their version of events

Consider if the student has special educational needs (SEN)

Any decision to exclude a student will be lawful, rational, reasonable and fair and proportionate.

In considering and processing the exclusion of a student 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
- ✓ Consider the school's Behaviour Policy
- ✓ Enable all students involved to have the opportunity to give their version of events
- ✓ Consult other people or agencies except where necessary or appropriate
- ✓ Ensure time has been given to addressing and supporting the student's individual problems within the capabilities of School
- ✓ Aim for the shortest possible period of exclusion
- ✓ Provide relevant and appropriate work to be completed at home
- ✓ Organise a re-integration meeting with relevant staff and parents/carers, ideally on the day of return to school or as soon as possible after this date
- ✓ Consider any additional intervention or support that may be necessary (see Managed Move / Step Out or AP)
- ✓ Facilitate reconciliation with other staff and students involved in the related incident as and when this is deemed appropriate and necessary

Managed Moves / Step out / SiP Gateway Referral or use of Alternative Provision

- A managed move short term step out or a placement in alternative provision will still be considered by the school, if the student is at risk of exclusion.
- A managed move / step out is voluntary and can only be triggered if there is agreement from both schools and the parent/ carer. The LA paperwork and protocols documents should be used to record all step out and managed move placements.
- Alternative Provision either on site or off site may also be considered by schools where this provision would prevent further exclusions and support the student remaining in full time education.
- Alternative provision may be considered on a short- or long-term basis dependent on individual student and school circumstances.
- Schools may need to consider a SiP Gateway referral for students who are at serious risk of exclusion and or becoming disengaged and potentially NEET. School should use the SiP Gateway referral when all other avenues of support and intervention have been exhausted by the school.
- Schools should refer students through the SiP Gateway using the LA paperwork and following the agreed procedures and timelines.

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 governing board and how the student may be involved in this

Where there is a legal requirement for the governing board 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 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:

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 governing board and local authority

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

A permanent exclusion, including when a fixed-period exclusion is made permanent

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 LA 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 governing board once a term.

The school must regularly monitor the number of Fixed Term Exclusions to ensure that no group of students, or student, is unfairly disadvantaged through their use and that any underlying needs of individuals are being fully met.

5.2 The Governing Body Disciplinary Committee

In the instance of a permanent exclusion the school must set up a Governing Body Disciplinary Committee to consider the exclusion and whether the decision of the Headteacher should be upheld or whether the student should be reinstated. 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 student.

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.

The Governing Body Discipline Committee must meet to:

- Consider the circumstances in which the student was excluded.
- Consider any representations about the exclusion made by the parent/carer.
- Consider whether the student should be reinstated immediately, reinstated by a particular date or not reinstated.
- Satisfy itself that all possible strategies to improve a student's behaviour were tried without success

The Governing Body Discipline Committee may not attach conditions to the re-instatement of a student.

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

6. Considering the reinstatement of a student

The Governing Body Discipline Committee 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

If requested to do so by parents, the governing body discipline committee will consider the reinstatement of an excluded student within 50 school days of receiving notice of the exclusion if the student 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 student missing a public examination, Governing Body Discipline Committee will consider the reinstatement of the student before the date of the examination. If this is not practicable, the GBDC will consider the exclusion and decide whether to reinstate the student.

The governing body discipline committee 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 GBDC 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 GBDC 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, GBDC 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 LA 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

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 LA will arrange for an independent panel to review the decision of the governing body 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 GBDC of its decision to not reinstate a student.

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 school governor's category and 2 members will come from the headteacher category.

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 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

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:

Are a director of the MLT or governing board of the excluding school

Are the headteacher of the excluding school, or have held this position in the last 5 years

Are an employee of the MLT or the governing 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 MLT or individual school, governing 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 panel will decide one of the following:

Uphold the governing board's decision

Recommend that the governing board reconsiders reinstatement

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 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 governing body 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. (See Appendix 2 for process for reintegration meeting)

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

- Agreeing a behaviour contract
- Putting a student 'on report'
- Referral to Phoenix provision
- Referral to external agencies – e.g CYT
- Change of classes / groups

The above list is not exhaustive. Measures will be taken depending on the students circumstances and needs. Actions for school, parents and the students will be agreed at the reintegration meeting.

10. Monitoring arrangements

The Assistant Headteacher for Inclusion monitors the number of exclusions every term and reports back to the Headteacher and governors. They also liaise with the local authority to ensure suitable full-time education for excluded students.

This policy will be reviewed by the Assistant Headteacher for Inclusion every two years. At every review, the policy will be shared with the governing board.

11. Links with other policies

This exclusions policy is linked to our

- Behaviour policy
- SEN policy and information report
- Attendance policy

Appendix 1: Independent review panel training

The LA 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:

- 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, governing 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

Appendix 2: Process & Documentation for re-integration meeting following a Fixed Term Exclusion.

Reintegration Meeting Following Fixed Term Exclusion.

After a Fixed Term Exclusion, **all students** must attend a reintegration meeting with a member of the Leadership Team and (a member of pastoral staff e.g. HoY) to discuss the incident and conduct a review of the student's behaviour; as well as reinforce schools behaviour expectations. The meeting should include discussion of the following:



Fixed Term Exclusion Reintegration Meeting

Students Name: _____ Year group: _____

FTE dates: From _____ to _____

Number of FTE This academic year: _____

Reason: _____

Present:

Summary of discussion:

Summary of actions after meeting:

School:

Parent/Carer:

Student:

Signed (Parent/Carer) Date:

Signed (School) Date: