



ALL SAINTS
Multi Academy Trust

Trust Exclusions Policy

December 2017

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Person Responsible for Policy	Trust Director of Finance & Resources
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1. Aims

Our Trust 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](#) (September 2017).

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](#)

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 pupils
- 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](#)
- The Equalities Act 2010
- Section 6 of The Human Rights Act 1998

This policy complies with our funding agreement and articles of association.

3. The decision to exclude

Only the Head of School, or Acting Head of School, 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:

- In response to serious or persistent breaches of the Trust's behaviour policy, **and**
- If allowing the pupil to remain in the Academy would seriously harm the education or welfare of others
- In cases where there has been a major breach in normal expectations of conduct

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

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

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 Head of School

Informing parents

The Head of School will immediately provide the following information, by phone, and as soon as possible in writing, to the parents of an excluded pupil:

- 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 Governing Body and how the pupil may be involved in this
- Where there is a legal requirement for the Local Governing Body 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

When notifying parents about an exclusion, the Head of School should draw attention to relevant sources of free and impartial information. This information should include:

- a link to this statutory guidance on exclusions (<https://www.gov.uk/government/publications/school-exclusion>);
- a link to sources of impartial advice for parents such as the Coram Children's Legal Centre (www.childrenslegalcentre.com), or ACE Education (<http://www.aceed.org.uk>) and their advice line service on 03000 115 142 on Monday to Wednesday from 10 am to 1 pm during term time); and
- where considered relevant by the head teacher, links to local services, such as Traveller Education Services, the Information Advice & Support Services Network (formerly known as the local parent partnership) (<https://councilfordisabledchildren.org.uk/information-advice-and-support-servicesnetwork/about>), the National Autistic Society (NAS) School Exclusion Service (England) (0808 800 4002 or schoolexclusions@nas.org.uk), or Independent Parental Special Education Advice (<http://www.ipsea.org.uk/>).

The Head of School should ensure that information provided to parents is clear and easily understood. Where the parents' first language is not English consideration should be given, where practical, to translating the letter or taking additional steps to ensure that the details of the exclusion and their right to make representations to the governing board have been understood.

The Head of School 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 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 Body and local authority

The Head of School will immediately notify the Local Governing Body and the local authority (LA) of:

- A permanent exclusion, including when a fixed-period exclusion is made permanent
- Exclusions which would result in the pupil being excluded for more than 5 school days in a term
- 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 Head of School 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 Head of School will notify the Local Governing Body and LA once a term.

5.2 The Local Governing Body

For a fixed-period exclusion of more than five school days, the governing board (or local authority in relation to a pupil excluded from a PRU) must arrange suitable full-time education for any pupil of compulsory school age. This provision must begin no later than the sixth school day of the exclusion. Where a child receives consecutive fixed-period exclusions, these are regarded as a cumulative period of exclusion for the purposes of this duty. This means that if a child has more than five consecutive school days of exclusion, then education must be arranged for the sixth school day of exclusion, regardless of whether this is as a result of one fixed-period or more than one fixed-period exclusion.

In addition, where a pupil has an EHC plan, the local authority may need to review the plan or reassess the child's needs, in consultation with parents, with a view to identifying a new placement.

Responsibilities regarding exclusions are delegated an exclusions committee. The exclusions committee has a duty to consider the reinstatement of an excluded pupil (see section 6).

Provision does not have to be arranged for pupils 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.

The local authority must have regard to the relevant statutory guidance when carrying out its duties in relation to the education of looked after children.

It is important for Academies to help minimise the disruption that exclusion can cause to an excluded pupil's education. Whilst the statutory duty on governing boards or local authorities is to provide full-time education from the sixth day of an exclusion, there is an obvious benefit in starting this provision as soon as possible. In particular, in the case of a looked after child, the Academy and the local authority should work together to arrange alternative provision from the first day following the exclusion.

Where it is not possible, or not appropriate, to arrange alternative provision during the first five academy days of an exclusion, the Academy should take reasonable steps to set and mark work for the pupil. Work that is provided should be accessible and achievable by the pupil outside school.

5.4 Procedure at the Meeting

Both the parents and the Head of School must be invited to any meeting of the governing body under this policy and allowed to make representation.

If the student is back at the Academy before the Governing Body meets, the meeting still enables the parent to give their views. The Governing Body can also consider whether more information should be added to the student's record.

If the student is still excluded when the meeting takes place, the Exclusions Committee should decide whether to direct re-instatement. In reaching their decision the Committee should:

- consider the parent's statements;
- have regard to DfE guidance on the appropriate use of exclusion and the Academy's Behaviour Policy. Also, they should consider whether the Head of School has tried sufficient approaches to improve a student's behaviour before resorting to exclusion, and whether any further strategies might be an alternative to exclusion;
- for permanent exclusion, the Governing Body should normally satisfy itself that all possible strategies to improve a student's behaviour were tried without success. Strategies should include those in DfE guidance, including a Pastoral Support Programme which would comprise of a Team Around the Child (TAC) meeting or if necessary an Early Health Assessment Tool (EHAT). For children with EHC plans, asking the local authority to review the statement might be better than resorting to exclusion

6. Considering the reinstatement of a pupil

The Local Governing Body will consider the reinstatement of an excluded pupil 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 pupil's total number of school days of exclusion to more than 15 in a term
- It would result in a pupil missing a public examination

If requested to do so by parents, the Local Governing Body will consider the reinstatement of an excluded pupil within 5 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, the Local Governing Body will consider the reinstatement of the pupil before the date of the examination. If this is not

practicable, the Local Governing Body will consider the exclusion and decide whether or not to reinstate the pupil.

The Local Governing Body can either:

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

In reaching a decision, the Local Governing Body will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the Head of School 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.

The Local Governing Body will notify, in writing, the Head of School, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the Local Governing Body'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 pupil's SEN are considered to be relevant to the exclusion
 - That, regardless of whether the excluded pupil has recognised SEN, parents have a right to require the Academy 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 Academy will arrange for an independent panel to review the decision of the Local Governing Body 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 the Local Governing Body of its decision to not reinstate a pupil.

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 governors 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 academy trust, or Local Governing Body of the excluding Academy
- Are the Head of School of the excluding school, or have held this position in the last 5 years
- Are an employee of the Trust, or the Local Governing Body, 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 Governing Body, parents or pupil, 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 Local Governing Body's decision
- Recommend that the Local Governing Body reconsiders reinstatement
- Quash the Local Governing Body'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:

- 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
- 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 Governing Body 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 implemented when a pupil returns from a fixed-term exclusion:

- *Agreeing a behaviour contract*
- *Putting a pupil 'on report'*
- *Internal isolation*

10. Monitoring arrangements

The senior leader with responsibility for behaviour monitors the number of exclusions every term and reports back to the Head of School and the Local Governing Body. They also liaise with the local authority to ensure suitable full-time education for excluded pupils.

This policy will be reviewed by the Trust Board every two years. At every review, the policy will be shared with the Local Governing Body.

11. Links with other policies

This exclusions policy is linked to our

- Behaviour policy
- SEN policy and information report

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:

- 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 Governing Bodies 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