



The Liverpool Joint Catholic and
Church of England Academies Trust



Exclusions Policy

Review Period:	Two Yearly
Person Responsible For Policy:	Head of School
Governing Committee:	Trust Board
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Date for Review:	March 2019

Serious Incidents of Misbehaviour Leading to Fixed Period or Permanent Exclusion

Definition of exclusion

1. Exclusion takes place when a student is prevented, on disciplinary grounds, from attending the Academy. A student may be removed from school site where there is sufficient evidence that a student has committed a disciplinary offence and if allowing the student to remain in the Academy would seriously harm the education or welfare of the student or others in the Academy. In these circumstances the student may be excluded from the Academy for a fixed period or permanently.

The Power to Exclude

2. Only the Head of School has the legal power to exclude and this must be on disciplinary grounds. Exceptionally, a member of the school's management team acting in the Head of School's absence can exclude.

Pre-Exclusion Procedures

3. Schools should intervene as soon as possible to address emerging behaviour problems and try to identify whether there are any causal factors, learning difficulties or disabilities, and intervene early thereby minimising the need for permanent exclusion.

Permanent exclusion should be considered as a last resort, in response to a serious breach, or persistent breaches of the Academy's behaviour policy and where allowing a student to remain in the Academy would seriously harm the education or welfare of the student or others in the Academy.

Action to be invoked by Senior Staff in Serious Disciplinary Matters

4. Over serious matters a senior member of staff, i.e. a Deputy Head of School or Assistant Head of School, must interview students. If the nature of the incident is very serious then two staff members should be present to conduct the interview. The student should be questioned fairly and be given ample opportunity to give a response. The student should be asked to provide a written statement of what happened and asked to sign it. At this stage this statement will help the Head of School or Deputy Head of School to decide on what further action should be taken.
5. In discharging their duties the Head of School and Governors of the Academy will have regard to DfE guidance on exclusions.
6. A decision to exclude a student will only be taken:
 - In response to serious breaches of the Academy's behaviour and discipline policy;
 - If allowing the student to remain in the Academy would seriously harm the learning or welfare of the student or other students in the Academy
 - In cases where there has been a major breach of normal expectations of conduct.
7. Before excluding a child, in most cases a range of alternative strategies will have been

tried.

Responsibilities of the Head of School

8. The Head of School alone (or Deputy Head of School, if they are absent) has the power to exclude students.
9. In considering excluding a student, the Head of School should carry out a range of activities including:
 - Undertaking a thorough investigation
 - Considering all the relevant facts and firm evidence to support the allegations
 - Taking into account the Academy's behaviour policy including the equal opportunities and anti-bullying policies
 - Checking whether an incident appeared to be provoked by any means including racial or sexual harassment
 - Ensuring that all students involved including those students with learning difficulties have the opportunity to give their version of events
 - Consulting other people or agencies except where they may be involved in any review of the exclusion
 - Ensuring time has been given to addressing and supporting the student's individual problems
10. Before deciding to exclude a student permanently the Head of School will normally first try a range of strategies including fixed term exclusion. Normally only when other strategies have been tried without success will the Head of School consider permanent exclusion.
11. There are occasions when the severity of the offence will merit permanent exclusion, even when there has been no record of poor behaviour.
12. The Head of School may exclude a student for one or more fixed periods up to and including 45 school days in any one academic year or permanently. However, before a permanent exclusion is considered the Head of School will have held discussions with Liverpool LEA with a view to looking at alternative arrangements such as a Negotiated Transfer (NT) to another school, New Protocol through Fair Access Panel (FAP) or a cycle in a Student Support Centre (SSC).
13. The Head of School will aim for the shortest possible period of exclusion but, however brief, an exclusion plan will be made
 - To enable the student to continue his or her education
 - To use the time to address the student's problems
 - To plan the process of reintegration

Informing Parents about the Exclusion

14. The Head of School, Deputy Head of School or elected Senior Leader will make sure the Parent is notified immediately, ideally by telephone, and that the telephone call is followed by a letter within one school day. An exclusion will normally begin on the next

school day.

15. Letters about fixed period and permanent exclusions will explain:-

- Why the Head of School decided to exclude the student and the steps taken to try to avoid the exclusion.
- The arrangements for enabling the student to continue his/her education, including setting and marking the student's work.
- The parent's right to state their case to the Governing Body.
- Who the parents should contact if they wish to state their case (usually the Clerk to the Governing Body).
- The latest date by which the parent can put a written statement to the Governing Body.
- The parent's right to see and have a copy of their child's record.
- If the exclusion is for a **fixed period**, the length of the exclusion and the date and time the student should return to the Academy.
- If the exclusion is **permanent**, the date the permanent exclusion takes effect, and details of any relevant previous warnings, fixed period exclusions or other disciplinary measures taken before the present incident.

16. If the Head of School wishes to extend a fixed period exclusion or, exceptionally, converts a fixed period exclusion into a permanent exclusion, they will again write to the Parent explaining the reasons and making the other points above. Where an exclusion is extended there will be a renewed right for the parent to state their case to the Governing Body.

Informing the Governing Body

17. The Head of School will inform the Chairman of the Governing Body of:-

- All permanent exclusions
- All exclusions which would result, separately or in total, in the student missing more than five school days in any one term
- All exclusions which deny students the opportunity to take a public examination.

18. Fixed period exclusions of one to five school days will be reported termly, unless the Governing Body asks for more frequent reports.

19. The Head of School will inform the student's home LEA of that student's permanent exclusion, so that the LEA can make preparations to provide him with suitable full-time education if he remains excluded after 15 school days.

Responsibilities of the Governing Body

20. The Governing Body does not have the right to exclude a student. The Governing Body will review the use of exclusion in the Academy regularly. The Governing Body may establish a Discipline Committee and, when the need arises, will establish an independent Appeal Panel.

21. If the Governing Body decides to establish a Discipline Committee, it will consist of at

least three Governors who will review the use of exclusion within the Academy, including considering the views of the parents of an excluded student, and deciding whether or not to confirm exclusions of more than five school days or those where a student 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.

22. If the exclusion is for five school days or fewer the Governing Body will consider any statement submitted by the parent. If any exclusion would cause the student to miss sitting a public examination the Governing Body will try to meet before the public examination. Where a public examination is concerned, if it is not practical for the Governing Body to meet, the Chair of the Governors will consider the exclusion. Alternative arrangements to allow an excluded student to take public examinations will be considered.
23. For exclusions of more than fifteen school days in a term the Governing Body will consider the exclusion and decide whether the student should be reinstated. If a student has been excluded on a number of occasions the Governing Body will meet once the student has missed more than fifteen school days in the term. The parent can request a meeting for one or more exclusions totalling over 5 school days in a term.
24. For permanent exclusions the Governing Body will consider the exclusion and decide whether the student should be reinstated. Such consideration will take account of the student's disciplinary record and the interests of the whole Academy community as well as the severity of the offence.
25. On receiving notice from the Head of School that a student has been excluded for more than five school days, the clerk to the Governing Body should:
 - for an exclusion of between six school days and 15 school days in a term, set up a meeting, **only if requested by the parent**, between the 6th and the 15th school day to consider the exclusion.
 - for an exclusion of over 15 school days, set up a meeting between the 6th and 15th school day after that notice to consider the exclusion; invite the parent to the meeting, at a time and place convenient to all parties as far as possible. The parent may be accompanied by a friend or a legal representative at their request;
 - ask for any written statements in advance of any meeting;
 - circulate any written statements, ensuring that the identity of students is concealed if thought appropriate, and a list of those who will be present at the meeting to all parties attending.
26. The chair of the Governing Body should normally allow the excluded student to attend the meeting and speak if the parent and the student ask for this. If the student is 18 or over, he presents his own case.

Procedure at the Meeting

27. 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.

28. If the student is still excluded when the meeting takes place, the Governing Body should decide whether to direct re-instatement. In reaching their decision the Governing Body should:
- consider the parent's statements;
 - have regard to DfE guidance on the appropriate use of exclusion and the Academy's Positive 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 statements of SEND, asking the LEA to review the statement might be better than resorting to exclusion.
29. The Governing Body may not attach conditions to the re-instatement of a student.
30. If the Governing Body upholds the Head of School's decision to exclude a student permanently, it will write within seven school days to the parent:
- giving the reasons for the decision;
 - explaining the parent's right to appeal to an Independent Appeal Panel to which the parents can make oral and written statements;
 - giving the name and address of the person the parents should contact if they wish to appeal, explaining that any notice of appeal should give the grounds of appeal and stating the latest date for giving notice (15 school days from the date of notification of the Governing Body's decision). The parent has the right to appeal to the panel even if they did not make a case to the Governing Body.
31. If the Governing Body upholds a decision to exclude a student permanently it will notify the student's home LEA in writing of this decision within seven school days of the meeting. The Governing Body's decision on fixed term exclusions is final. In the case of permanent exclusions, parents may appeal to an independent Appeals Panel.

After the Meeting

32. A note of the Governing Body's views on the exclusion should normally be placed on the student's record with a copy of the Head of School's exclusion letter.

Appeal Hearings

33. Parents whose child is excluded permanently from the Academy have the right to appeal against the Governing Body's decision to uphold the exclusion. This appeal is made to the Appeal Panel. The right of appeal is unrestricted subject to the time limit.
34. An appeal must be lodged in writing to the Clerk to the Appeal Panel within 15 school days from the date the parent receives notice of the decision. The panel should meet as soon as possible but in any event within 15 school days of the notification of appeal

35. In the event of a permanent exclusion the student's home LEA will be notified promptly once the exclusion is confirmed

Arranging an Appeal Hearing

36. The letter from the Clerk to the Governing Body will inform the parents of their right to appeal against the decision of the Governing Body not to re-instate the permanently excluded student. The letter will give the name and contact details of the Clerk to the Appeal Panel (who should not be the same person as the Clerk to the Governing Body) and explain that the Parent's notice of appeal must be in writing and set out the grounds of appeal. The letter will tell the parents that the final date for lodging an appeal will be 15 school days from the date the parent receives notice.
37. The day on which the parent is given notice will be taken to be the second school day after the date of posting by first class post, or where the notice is hand-delivered, the date of delivery (unless a different date of receipt can be demonstrated). No appeal will be accepted if it is made after the final date for lodging an appeal.
38. The Independent Appeal Panel will comprise three or five members plus a clerk appointed by the Governing Body.
39. No Governor, employee of the Academy Trust or person who has had any connection with the Academy Trust or with the excluded student or with the incident leading to the exclusion, shall serve on the Appeal Panel. The members of a three member Panel will be: a serving or recently retired (within the previous 5 years) Headteacher of a school; a serving or recently serving (within the previous 6 years) governor of a school with at least one year's unbroken service and who has not been a teacher or Headteacher within the previous 5 years; and a lay member who takes the Chair. The members of a five member Panel will be two Headteachers, two governors and a lay member who takes the chair. A lay member is a person without personal experience in the management of any school or the provision of education in any school disregarding any experience as a governor or in any other voluntary capacity.
40. The Appeal Panel may not reinstate students purely on the basis of minor 'technicalities' relating to prior procedure, where they are persuaded on the merits of the case that the exclusion was justified and would not otherwise direct that the student should be reinstated. The Appeal Panel will rather consider afresh the question of whether the student should be reinstated.
41. The Appeal Panel will meet within 15 school days of the date the parent lodges notice of appeal.
42. Those entitled to attend a hearing and present their case are:-
- The parent (or the student if aged 18 or over), who may be represented by a legal or other representative.
 - The Head of School, who may make oral representations.
 - A nominated member of the Governing Body, who may make oral representations.
 - A legal or other representative of the Governing Body.
43. The Head of School and Governing Body may also make written representations.

Wherever possible, the Clerk will make available all written evidence to the panel members and the parent five working days in advance of the hearing. The student, if the parent requests, will normally be allowed to attend the hearing and speak on his own behalf.

Role of the Clerk

44. The Appeal Panel will have a clerk who will serve as an independent source of advice on procedure for all parties to the appeal. The Governing Body will use its best endeavours to ensure that the clerk has some legal training and has experience in the conduct of appeal hearings. They should not be the same person who served as a clerk to the prior Governing Body hearing.
45. When the panel withdraws, or invites the parties to do so, when it wishes to consider its decision, the clerk may remain with the panel, but only for the purpose of offering advice on procedure or law, and recording decisions and reasons.

Procedure at the Hearing

46. The appeal hearing will not be held at the Academy. The Appeal Panel will do everything possible to establish an atmosphere of informality where the parties can present their cases effectively.
47. The remit of the Appeal Panel is to consider whether the student should have been excluded and whether the student should be re-instated,
48. In considering an appeal, the panel will decide whether the student actually did what he or she is accused of doing. If more than one incident of misconduct is alleged, the panel will decide on each incident. If satisfied on the balance of probabilities that the student did what he was alleged to have done, then the panel will decide whether, considering all relevant factors, permanent exclusion was a reasonable response to that conduct. Relevant factors must include:
 - The broader interests of other students and staff in the Academy, as well as those of the excluded student;
 - The Academy's published discipline policy;
 - Where other students were involved in the same incident and were also disciplined, the fairness of the permanent exclusion in relation to the sanctions imposed on the other students involved.
49. To reach a decision, the panel may need to hear evidence from those directly or indirectly involved, including the student. The governing body may not introduce new reasons for the exclusion. However, the parent may put forward new information that may not previously have been available. If this happens, the governing body should be given an opportunity to respond.
50. The order of hearing will be notified in advance to the parties. At the start of the hearing the chair or clerk will welcome the parties and introduce those present, pointing out that the panel is independent of the Academy and its governing body and that its decision is binding on them. The clerk will explain the order in which the parties entitled to be heard will state their case and that there will be an opportunity for questioning by the other

parties afterwards.

51. The panel members may also ask questions of the other parties to the appeal or of any witnesses who appear, in order to clarify an issue or to elicit more information. The aim will be for panel members to ask their questions at the end of each party's statement and following questions by the other parties.
52. The clerk may be called on to give legal or procedural advice to the Appeal Panel during the course of the hearing and when they retire to consider their decision.
53. The chair will order proceedings and lead the panel in establishing the relevant facts. If the parent appears to be having difficulty in presenting their case, the chair should intervene to assist them to ensure that their case is established and that factual matters not in dispute are clearly identified. The chair will assist parents who have English as a second language or who have literacy problems, and who may not have understood all the paperwork.
54. If the Appeal Panel wish to vary the notified procedure, they should only do so after hearing the views of all the parties present and entitled to make representations.
55. Sufficient time will be allowed for each party to put its case. The panel should ensure that parents are given the opportunity to comment on relevant information obtained from the Governing Body. Care must be taken to ensure that no party attending the hearing is present alone with the Appeal Panel.
56. In exceptional cases the panel may adjourn an appeal to a later date. If there is an adjournment, it is essential that no part of the proceedings takes place other than in the presence of all the panel members.

Evidence and Witnesses

57. Where the Academy's case rests largely or solely on physical evidence, and where the facts are in dispute, then the physical evidence, if practicable, should be retained and be available to the panel, if they wish to see it. Where there are difficulties in retaining physical evidence, photographs or signed witness statements are acceptable as evidence.
58. The Appeal Panel cannot compel witnesses to attend and any witnesses must therefore appear before it voluntarily. The Appeal Panel may wish to call witnesses who saw the incident or behaviour which gave rise to the exclusion. They may also wish to call a teacher or teachers (other than the Head of School) who investigated the incident and interviewed students. The Head of School has the right to make written representations to the panel and to appear and make oral representations.
59. Where adult witnesses are unwilling to appear in person or are unavailable, the panel must rely on their written statements, copies of which will have been circulated to all parties by the clerk before the hearing. In the case of witnesses who are students of the Academy, it will generally be appropriate for the panel to rely on their written statements. Students may, however appear as witnesses in person if they do so voluntarily and their parents consent. All written witness statements must be attributed and signed, except in cases where the Academy has good reason to wish to protect the

anonymity of students. In such cases the statement will not be attributed and some names may be blanked out. The general principle remains that someone accused of something is entitled to know the substance and the source of the accusation. If any witnesses are going to appear in person, all parties need to know the details in advance of the day of the hearing.

60. The calling of character witnesses is at the discretion of the panel, but should be allowed unless there is good reason to refuse. It is for the panel to decide whether any witnesses, having given evidence, should remain for the remainder of the hearing.
61. If any of the parties intend to raise matters or produce documents at the hearing which are not covered by the statement of decision or the notice of appeal, these should be submitted to the clerk to the Appeal Panel in good time before the hearing. If substantial new issues are raised for the first time at the hearing, an adjournment may be necessary to allow all parties to consider the issues.
62. An appeal panel may uphold the decision to exclude; direct immediate reinstatement or reinstatement at some future date; or may decide that because of exceptional circumstances or other reasons it is not practical to give a direction requiring reinstatement, but that it would otherwise have been appropriate to give such a direction. An Appeal Panel, when directing re-instatement, may specify a future date rather than an immediate return perhaps to allow for support arrangements to be put in place. But the date of re-instatement should be reasonable in all the circumstances. The Appeal Panel cannot attach conditions to the re-instatement of a student.
63. Under no circumstances can an appeal continue if the number of panel members drops below three at any stage during the appeal. Once an appeal has begun, no panel member may be substituted by a new member for any reason. In the case of a five member panel, if any member dies or is taken ill, the panel may continue, provided the three categories of member are still represented on the panel. In such cases the Chair would have the casting vote.

Record of the Proceedings of an Appeal Panel

64. The clerk to an Appeal Panel should take minutes of the proceedings, the attendance, the voting and record the decision in a format approved by the Appeal Panel.

After the Hearing

65. The decision of the Appeal Panel is binding on all parties. The Appeal Panel will communicate its decision to all parties by the end of the second school day after the appeal hearing. Where a hearing is held on the last day of term or outside term-time, the panel will notify all parties by the end of the second working day after the conclusion of the hearing.
66. If the Appeal Panel upholds the permanent exclusion, the clerk should immediately report this to the student's home LA. The clerk should also advise the parent to contact the LA about arrangements for their child's continuing education. The Head of School should remove the student's name from the Academy's roll the day after the conclusion of the exclusion appeal. Where the Appeal Panel direct re-instatement they should immediately inform the Head of School of their decision and specify the date on which

the student must be readmitted.

67. Details of an exclusion may not be deleted from the student record, where an exclusion is a matter of fact. The Governing Body must, however, comply with any parental request to append their appeal statement to the student's record. It will be for the Governing Body to decide what details of the exclusion are included in the student's school record: copies of the Head of School correspondence should be included and possibly the minutes of the Governing Body and Appeal Panel hearings, if the Governing Body and Appeal Panel respectively agree to this.