



Exclusion POLICY

Approved by BRIGSHAW LEARNING PARTNERSHIP Board: March 2018

Adopted by Swillington Primary School Local Governing Board: April
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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 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](#).

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](#)

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

3. The decision to exclude

Only the headteacher, or a person acting with the headteacher's authority, can exclude a pupil from school. A pupil may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or permanently. 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 school's behaviour policy, **or**
- If allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others

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

- Consider all the relevant facts and evidence.
- 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 staff training days do not count as a school day.

The law does not allow for extending a fixed-period exclusion or 'converting' a fixed-period exclusion into a permanent exclusion. 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.

The behaviour of a pupil outside school can be considered grounds for an exclusion.

5. Roles

The headteacher

The head teacher must take account of their legal duty of care when sending a pupil home following an exclusion

Informing parents

The headteacher will provide the following information, 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 governing board
- Where there is a legal requirement for the governing board 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

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 advised to parents:

- 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

The information 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 Chair of the local governing board and the local authority (LA) of:

- A permanent exclusion, including when a fixed-period exclusion is made permanent
- Daily summary of exclusions and the term for each exclusion issued
- Highlighting 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 headteacher will also immediately inform the pupil's 'home authority' of the exclusion and the reason(s) for it without delay.

For all exclusions, the headteacher will issue a summary report to the governing board once a term.

5.2 The governing board

Responsibilities regarding exclusions is delegated to the Chair of the Local Governing Body.

The Local Governing Board will appoint an appeal panel which has a duty to consider the reinstatement of an excluded pupil. The panel will usually consist of 3 governors.

The local governing board has a duty to consider the reinstatement of an excluded pupil (see section 6).

Within 14 days of receipt of a request, the governing board will provide the secretary of state *and the LA* with information about any exclusions in the last 12 months.

For a fixed-period exclusion of more than 5 school days, the governing board will arrange suitable full-time education for the pupil. This provision will begin no later than the sixth day of the exclusion.

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.

5.4 Police Involvement

The headteacher need not postpone taking a decision on an exclusion solely because a police investigation is underway and/or any criminal proceedings may be brought. Where the evidence is limited by a police investigation or criminal proceedings, the headteacher will give particular consideration to ensuring that the decision to exclude is fair.

Where the local governing board is required to consider the headteacher's decision in these circumstances, they cannot postpone their meeting and must decide whether or not to reinstate the pupil on the evidence available.

Criminal proceedings shouldn't directly affect the decision of the review panel as to whether it should adjourn.

6. Considering the reinstatement of a pupil

The local governing board 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 board panel will consider the reinstatement of an excluded pupil within 50 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.

The following parties must be invited to a meeting of the governing board and allowed to make representations:

- parents (and, where requested, a representative or friend);
- the head teacher; and
- a representative of the local authority

Where an exclusion would result in a pupil missing a public examination, the local governing board will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the chair of the governing board (or the vice-chair where the chair is unable to make this consideration) will consider the exclusion independently and decide whether or not to reinstate the pupil. Arrangements can be made for the pupil to sit the examination off-site if this is appropriate.

The local governing board 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 board 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.

Where the governing board is legally required to consider reinstating a pupil, they must consider the interests and circumstances of the excluded pupil, and have regard to the interests of other pupils and those working at the school.

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 board will notify, in writing, the headteacher, parents, BRIGSHAW LEARNING PARTNERSHIP Board and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the local governing board'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 BRIGSHAW LEARNING PARTNERSHIP 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

Applications for an independent review must be made within 15 school days of notice being given to the parents by the local governing board of its decision to not reinstate a pupil.

If parents apply for an independent review, the Brigshaw Learning Partnership will arrange for an independent panel to review the decision of the local governing board not to reinstate a permanently excluded pupil.

A panel of 3 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 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 member/director of the academy trust, 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 BLP 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 which might reasonably be taken to raise doubts about their impartiality
- Have not had the required training within the last 2 years

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 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 governing board 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' or a regular report system*
- *Close supervision*
- *Internal isolation*

Maintained schools have the power to direct a pupil off-site for education to improve their behaviour. A pupil can also transfer to another school as part of a 'managed move' where this occurs with the consent of the parties involved, including the parents.

10. Monitoring arrangements

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

This policy will be reviewed by the BLP Board every 3 years. At every review, the policy will be shared with the local governing board.

11. Links with other policies

This exclusions policy is linked to our

- Behaviour policy
- SEND policy and information report

COMPLAINTS

An individual wishing to make a complaint about anything relating to this policy should refer to the BRIGSHAW LEARNING PARTNERSHIP Complaint Policy published on the BRIGSHAW LEARNING PARTNERSHIP Website.

EQUALITY IMPACT STATEMENT

We will do all we can to ensure that this policy does not discriminate, directly or indirectly. We shall do this through regular monitoring and evaluation of our policies. On review we shall assess and consult relevant stakeholders on the likely impact of our policies on the promotion of all aspects of equality, as laid down in the Equality Act (2010). This will include, but not necessarily be limited to: race; gender; sexual orientation; disability; ethnicity; religion; cultural beliefs and pregnancy/maternity.