

# Exclusion policy

ReFocus



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### 1. Policy Statement of Aims

Good behaviour in schools is essential to ensure that all students benefit from the opportunities provided by education. Therefore, the government recognizes that school exclusions, managed moves and off-site direction are essential behaviour management tools for headteachers and can be used to establish high standards of behaviour in schools and maintain the safety of school communities.

For the vast majority of students, suspensions and permanent exclusions may not be necessary, as other strategies can manage behaviour. However, if approaches towards behaviour management have been exhausted, then suspensions and permanent exclusions will sometimes be necessary as a last resort. This is to ensure that other students and teaching staff are protected from disruption and can learn in safe, calm, and supportive environments. Page 3 Suspension and Permanent Exclusion from maintained schools, academies and student referral units in England, including student movement

**ReFocus** aims to ensure that:

- The suspension and exclusion 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)
- Ensure all suspensions and permanent exclusions are carried out lawfully.

REFOCUS 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 will not suspend or exclude students unlawfully by directing them off site, or not allowing students to attend school:

- Without following the statutory procedure, contained in the School Discipline (Student Exclusions and Reviews) (England) Regulations 2012, or formally recording the event, e.g. sending them home to 'cool off'

- Because they have special educational needs and/or a disability (SEND) that the school feels unable to support
- Due to poor academic performance
- Because they haven't met a specific condition, such as attending a reintegration meeting.
- By exerting undue influence on a parent to encourage them to remove their child from the school

## 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 student referral units in England, including student movement - from September 2023.

It is based on the following legislation, which outlines schools' powers to exclude students:

- Section 51a 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 sets out 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
- The Equality Act 2010
- Children and Families Act 2014

## 3. Definition

Suspension – when a student is removed from the school for a fixed period. This was previously referred to as a 'fixed-term exclusion'.

Permanent exclusion – when a student is removed from the school permanently and taken off the school roll.

This is sometimes referred to as an 'exclusion'.

Off-site direction – when a governing board of a maintained school requires a student to attend another education setting temporarily, to improve their behaviour.

Parent – any person who has parental responsibility and any person who has care of the child.

Managed move – when a student is transferred to another school permanently. All parties, including parents and the admission authority for the new school, should consent before a managed move occurs.

## 4. The decision to exclude

Only the headteacher, or deputy headteacher in their absence, can suspend or exclude a student from school. A permanent exclusion will be taken as a last resort.

At ReFocus, 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,

- If allowing the student to remain in school would seriously harm the education or welfare of others
- Before deciding whether to suspend or permanently the headteacher will:
- Consider all the relevant facts and evidence.
- Ensure the student has had the opportunity to provide their version of events and also inform them of how their views were taken into consideration in reaching a decision.
- Consider any relevant special educational needs or vulnerabilities.

The headteacher may consider behaviour outside school to be grounds for a suspension or permanent exclusion in line with the principles of administrative law. When establishing the facts in relation to a suspension or permanent exclusion the headteacher must apply the civil standard of proof, i.e., 'on the balance of probabilities' it is more likely than not that a fact is true, rather than the criminal standard of 'beyond reasonable doubt.'

## 5. Roles and responsibilities

### The Headteacher

Only the Headteacher, or Acting Headteacher, can suspend or permanently exclude a student from school on disciplinary grounds. The decision can be made in respect of behaviour inside or outside of school. The headteacher will only use permanent exclusion as a last resort.

- A decision to suspend or 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 suspend or exclude a student, the Headteacher will:

- Consider all the relevant facts and evidence on the balance of probabilities, including whether the incident(s) leading to the exclusion were provoked.
- Allow the student to give their version of events.
- Consider whether the student has special educational needs (SEN)
- Consider whether the student is especially vulnerable (e.g. the student has a social worker, or is a looked-after child (LAC))
- Consider whether all alternative solutions have been explored, such as off-site direction or managed moves.

The headteacher will consider the views of the student, considering their age and understanding, before deciding to suspend or exclude, unless it would not be appropriate to do so. Students who need support to express their views will be allowed to have their views expressed through an advocate, such as a parent or social worker. The Headteacher will not reach their decision until they have heard from the student and will inform the student of how their views were taken into account when making the decision.

### Informing parents (or the student where they are 18 or older)

If a student is at risk of suspension or exclusion the Headteacher will inform the parents/student as early as possible, in order to work together to consider what factors may be affecting the student's behaviour, and what further support can be put in place to improve the behaviour.

If the Headteacher decides to suspend or exclude a student, the parents/student will be informed, in person or by telephone, of the period of the suspension or exclusion and the reason(s) for it, without delay.

The parents/student will also be provided with the following information in writing, without delay:

- The reason(s) for the suspension or permanent exclusion
- The length of the suspension or, for a permanent exclusion, the fact that it is permanent.
- Information about the parents'/student's right to make representations about the suspension or permanent exclusion to the governing board and, where the student is attending alongside parents, how they may be involved in this.
- How any representations should be made
- Where there is a legal requirement for the Governing Board to hold a meeting to consider the reinstatement of a student, and that parents/the student have a right to attend the meeting, be represented at the meeting (at their own expense) and bring a friend.
- That parents/the student have the right to request that the meetings be held remotely, and how and to whom they should make this request.

If the student is of compulsory school age, the Headteacher will also notify parents without delay and by the end of the afternoon session on the first day their child is suspended or permanently excluded, that:

- For the first 5 school days of an exclusion (or until the start date of any alternative provision or the end of the suspension, where this is earlier), the parents are legally required to ensure that their child is not present in a public place during school hours without a good reason. This will include specifying on which days this duty applies.
- 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, if possible:
  - 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 the student needs in order to identify the person they should report to on the first day.

If the Headteacher does not have all the information about the alternative provision arrangements by the end of the afternoon session on the first day of the suspension or permanent exclusion, they can provide the information at a later date, without delay and 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 a suspension or permanent exclusion, in which case the school reserves the right to provide the information with less than 48 hours' notice, with parents' consent.

If the Headteacher cancels the suspension or permanent exclusion, they will notify the parents/student without delay, and provide a reason for the cancellation.

- Any suspension or permanent exclusion that has been cancelled, including the reason for the cancellation. Informing the local authority (LA)

The Headteacher will notify the LA of all suspensions and permanent exclusions without delay, regardless of the length of a suspension.

The notification will include:

- The reason(s) for the suspension or permanent exclusion
- The length of a suspension or, for a permanent exclusion, the fact that it is permanent.

For a permanent exclusion, if the student lives outside the LA in which the school is located, the headteacher will also, without delay, inform the student's 'home authority' of the exclusion and the reason(s) for it.

The Headteacher must notify the LA without delay of any cancelled exclusions, including the reason the exclusion was cancelled.

Informing the student's social worker and/or virtual school head (VSH)

If a:

- Student with a social worker is at risk of suspension or permanent exclusion, the headteacher will inform the social worker as early as possible.
- Student who is a looked-after child (LAC) is at risk of suspension or exclusion, the headteacher will inform the VSH as early as possible.

This is in order to work together to consider what factors may be affecting the student's behaviour, and what further support can be put in place to improve the behaviour.

If the headteacher decides to suspend or permanently exclude a student with a social worker/a student who is looked after, they will inform the student's social worker/the VSH, as appropriate, without delay, that:

- They have decided to suspend or permanently exclude the student.
- The reason(s) for the decision
- The length of the suspension or, for a permanent exclusion, the fact that it is permanent.
- The suspension or permanent exclusion affects the student's ability to sit a National Curriculum test or public exam (where relevant)
- They have decided to cancel a suspension or permanent exclusion, and why (where relevant)
- The social worker/VSH will be invited to any meeting of the governing board about the suspension or permanent exclusion. This is so they can provide advice on how the student's background and/or circumstances that may have influenced the circumstances of their suspension or permanent exclusion. The social worker should also help ensure safeguarding needs and risks and the student's welfare are taken into account.

## 6. Cancelling suspensions and permanent exclusions

The Headteacher may cancel a suspension or permanent exclusion that has already begun, or one that has not yet begun, but only where it has not yet been reviewed by the Governing Board. Where there is a cancellation:

- The parents (or the student if they are 18 or older), governing board and LA will be notified without delay.
- Where relevant, any social worker and VSH will be notified without delay.
- The notification must provide the reason for the cancellation.

Parents (or the student if they are 18 or older) will be offered the opportunity to meet with the Headteacher to discuss the cancellation, which will be arranged without delay.

The student will be allowed back in school without delay.

Any days spent out of school as a result of any exclusion, prior to the cancellation, will count towards the maximum of 45 school days permitted in any school year.

A permanent exclusion cannot be cancelled if the student has already been excluded for more than 45 school days in a school year or if they will have been so by the time the cancellation takes effect.

Providing education during the first 5 days of a suspension or permanent exclusion

During the first 5 days of a suspension, if the student is not attending an alternative (AP) provision, the Headteacher will take steps to ensure that achievable and accessible work is set and marked for the student.

Online pathways such as Google Classroom/Oak Academy may be used for this. If the student has a special educational need or disability, the Headteacher will make sure that reasonable adjustments are made to the provision where necessary.

If the student is looked after or if they have a social worker, the school will work with the LA to arrange AP from the first day following the suspension or permanent exclusion. Where this isn't possible, the school will take reasonable steps to set and mark work for the student, including the use of online pathways.

## 7. An independent review

If parents/the student (if they are 18 or older) apply for an independent review within the legal timeframe, the School will, at their own expense, arrange for an independent panel to review the decision of the Headteacher 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/student by the governing board exclusion committee of its decision to not reinstate the student or, if after this time, within 15 school days of the final determination of a claim of discrimination under the Equality Act 2010 regarding the permanent exclusion. Any applications made outside of this timeframe will be rejected.

Independent reviews can be held remotely at the request of parents/students.

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 category and 2 members will come from the headteacher category. At all times during the review process there must be the required representation on the panel.

- 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.
- Current or former 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 of the trust 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 trust, 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 trust, 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.



The panel must consider the interests and circumstances of the student, including the circumstances in which the student was permanently excluded, and have regard to the interests of other students and people working at the school.

Taking into account the student's age and understanding, the student or their parents will be made aware of their right to attend and participate in the review meeting and the student should be enabled to make representations on their own behalf, should they desire to.

Where a SEN expert is present, the panel must seek and have regard to the SEN expert's view of how SEN may be relevant to the student's permanent exclusion.

Where a social worker is present, the panel must have regard to any representation made by the social worker of how the student's experiences, needs, safeguarding risks and/or welfare may be relevant to the student's permanent exclusion.

Where a VSH is present, the panel must have regard to any representation made by the social worker of how any of the child's background, education and safeguarding needs were considered by the headteacher in the lead up to the permanent exclusion or are relevant to the student's permanent exclusion.

Following its review, the independent panel will decide to do 1 of the following:

- Uphold the Headteacher's decision.
- Recommend that the Headteacher reconsiders reinstatement.
- Quash the Headteacher's decision and direct that they reconsider reinstatement (only if it judges that the decision was flawed)

New evidence may be presented, though the school cannot introduce new reasons for the permanent exclusion or the decision not to reinstate. The panel must disregard any new reasons that are introduced.

In deciding whether the decision was flawed, and therefore whether to quash the decision not to reinstate, the panel must only take account of the evidence that was available to the governing board at the time of making its decision. This includes any evidence that the panel considers would, or should, have been available to the governing board and that it ought to have considered if it had been acting reasonably.

If evidence is presented that the panel considers it is unreasonable to expect the governing board to have been aware of at the time of its decision, the panel can take account of the evidence when deciding whether to recommend that the Headteacher reconsider reinstatement.

The panel's decision can be decided by a majority vote. In the case of a tied decision, the chair has the casting vote.

Once the panel has reached its decision, the panel will notify all parties in writing without delay.

This notification will include:

- The panel's decision and the reasons for it
- Where relevant, details of any financial readjustment or payment to be made if the Headteacher does not subsequently decide to offer to reinstate the student within 10 school days.
- Any information that the panel has directed the Governing Board to place on the student's educational record.

## **8. School registers**

A student's name will be removed from the school admission register if:

- 15 school days have passed since the parents/student (if they are 18 or older) were notified of the



Headteacher's exclusion decision to not reinstate the student and no application has been made for an independent review panel, or

- The parents/student 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 within 15 school days, the governing board will wait until that review has concluded before removing a student's name from the register.

While the student's name remains on the school's admission register, the student's attendance will still be recorded appropriately. 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.

**Making a return to the LA**

Where a student's name is to be removed from the school admissions register because of a permanent exclusion, the school will make a return to the LA. The return will include:

- The student's full name
- The full name and address of any parent with whom the student normally resides.
- At least 1 telephone number at which any parent with whom the student normally resides can be contacted in an emergency.
- The grounds upon which their name is to be deleted from the admissions register (i.e. permanent exclusion)
- Details of the new school the student will attend, including the name of that school and the first date when the student attended or is due to attend there, if the parents have told the school the student is moving to another school.
- Details of the student's new address, including the new address, the name of the parent(s) the student is going to live there with, and the date when the student is going to start living there, if the parents have informed the school that the student is moving house.

This return must be made as soon as the ground for removal is met and no later than the removal of the student's name.

## **9. Returning from a suspension**

Following a suspension, a re-integration meeting will be held involving the student, parents, a member of senior staff and/or other staff, where appropriate. The purpose of this meeting is to develop a reintegration strategy to support the student to return and re-engage with their learning.

The following measures provide an example of what may be implemented when a student returns from a suspension:

- Identify any SEND or health needs, investigate additional testing or reasonable adjustments.
- Identify appropriate multi-agency partners and external support.
- Agree a behaviour contract.
- Put a student 'on report'.
- Provide additional Internal suspension to support a phased return.

The strategy will be regularly reviewed and adapted where necessary throughout the reintegration process in collaboration with the student, parents, and other relevant parties.

## Reintegration meetings

The school will clearly explain the reintegration strategy to the student in a reintegration meeting before or on the student's return to school. During the meeting the school will communicate to the student that they are getting a fresh start and that they are a valued member of the school community.

The student, parents, a member of senior staff, and any other relevant staff will be invited to attend the meeting.

The meeting can proceed without the parents in the event that they cannot or do not attend.

The school expects all returning students and their parents to attend their reintegration meeting, but students who do not attend will not be prevented from returning to the classroom.

## 10. Remote access to meetings

Parents, or students if they are 18 or older, can request that the governing board exclusion committee meeting, or independent review panel be held remotely. If the parents/student don't express a preference, the meeting will be held in person.

In case of extraordinary or unforeseen circumstances, which mean it is not reasonably practicable for the meeting to be held in person, the meeting will be held remotely.

Remotely accessed meetings are subject to the same procedural requirements as in-person meetings.

The ReFocus exclusion committee should make sure that the following conditions are met before agreeing to let a meeting proceed remotely:

- All the participants have access to the technology which will allow them to hear, speak, see and be seen.
- All the participants will be able participate fully.
- The remote meeting can be held fairly and transparently.

Social workers and the VSH always have the option of joining remotely, whether the meeting is being held in person or not, as long as they can meet the conditions for remote access listed above.

The meeting will be rearranged to an in-person meeting without delay if technical issues arise that can't be reasonably resolved and:

- Compromise the ability of participants to contribute effectively, or
- Prevent the meeting from running fairly and transparently.

## 10. Monitoring

The Deputy Headteacher monitors the number of exclusions analysing the data for patterns and trends. They monitor interventions in place to support students at risk, to prevent suspensions and exclusions and make sure that the progress of any students educated off site is reviewed regularly. The data will be analysed from a variety of perspectives including:

- At school level
- By age group
- By time of day/week/term
- By protected characteristic

The school will use the results of this analysis to make sure it is meeting its duties under the Equality Act 2010.

If any patterns or disparities between groups of students are identified by this analysis, the school will review its policies in order to tackle it. This is reported back to the headteacher termly. The governors are also regularly updated through the Headteachers report so that they can review current trends and potential future costings implications

## **Linked Policies**

- Anti-Bullying Policy
- Behaviour policy
- Child on Child Abuse Policy
- Exclusion and Suspension Policy
- Learning for All-Equal Opportunities Policy
- Online safety and Acceptable use Policy
- Safeguarding and Child Protection Policy