



**Minerva**  
Learning Trust

**Behaviour & Exclusions**  
**Principles, Policy & Guidance**  
**2021-22**

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## **Version Control**

Version 2 – updated 15<sup>th</sup> May 2020

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# 1. Purpose

Minerva Learning Trust take as our first priority the responsibility to safeguard and promote the welfare of all our students. As such, the Trust Board of Minerva Learning Trust is charged with the duty to set the framework of the behaviour policies of each school by providing a written statement of general principles relating to behaviour and discipline, considering the needs of all staff and students.

This Statement has been drawn up in accordance with the Education and Inspections Act, 2006, and DfE: Behaviour and Discipline in Schools advice for Headteachers and school staff 2016, The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012, Exclusion from maintained schools, academies and pupil referral units in England 2017.

The purpose of the Statement is to provide guidance to the Headteachers in drawing up their individual Behaviour and Exclusions Policy so that it reflects the shared aspirations and beliefs of all stakeholders in Minerva Learning Trust schools, Local Governing Bodies, staff, parents and students, as well as taking full account of law and guidance on behaviour matters. It is intended to help all staff to be aware of and understand the extent of their powers in respect of recognition and reward for good behaviour, discipline and sanctions for unacceptable behaviour and how to use them. Staff should be confident that they will always have the Trustees' support when following this guidance.

This is a statement of principles, not practice: it is the responsibility of the Headteacher to draw up the school's behaviour and exclusions policy, though the Headteacher must take account of these principles and guidance when formulating this policy. The Headteacher should also take account of the guidance in DfE: Behaviour and Discipline in Schools advice for Headteachers and school staff (January 2016) and The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012, Exclusion from maintained schools, academies and pupil referral units in England 2017.

With consideration of our duty of care to the students, this written statement and the policies that are influenced by it apply to all students when in school, when travelling to and from school, when engaged in extra-curricular activities such as educational trips and visits (residential and non-residential) and when being educated as a member of the Trust community off-site.

Each school's Behaviour and Exclusions Policy must be updated annually and published on the school's website and distributed to all members of staff including new staff as part of the induction process. The policy should be clear and be understood by all stakeholders, school staff, parents and students. Each school's approach to managing behaviour must sit within a wider inclusion provision for all students within the school.

## 2. Links Statutory Requirements and Legislation

- 2.1 This behaviour policy is based on advice from the Department for Education (DfE) on:
- [Behaviour and discipline in schools: guidance for headteachers and staff](#)
  - [Behaviour and discipline in schools](#)
  - [Searching, screening and confiscation at school](#)
  - [The Equality Act 2010](#)
  - [Use of reasonable force in schools](#)
  - [Supporting students with medical conditions at school](#)
  - [Preventing and tackling bullying](#)
- 2.2 It is also based on the [special educational needs and disability \(SEND\) code of practice](#).
- Schedule 1 of the [Education \(Independent School Standards\) Regulations 2014](#); paragraph 7 outlines a school's duty to safeguard and promote the welfare of children, paragraph 9 requires the school to have a written behaviour policy and paragraph 10 requires the school to have an anti-bullying strategy
  - [DfE guidance](#) explaining that academies should publish their behaviour policy and anti-bullying/ anti-cyberbullying strategy online.
- 2.3 It is also based on the updated information contained in [Keeping children safe in education](#) September 2021.

## 3. Behaviour Principles

### 3.1 High Standards of Behaviour and Attendance

The Trust Board believe that high standards of behaviour and attendance lie at the heart of a successful school which enables all its students to make the best possible progress in all aspects of their educational life and that all staff should be able to teach and promote good learning without interruption. It should be clear that behaviour should not jeopardise the health and safety of any member of the school community.

Attendance and punctuality will be strongly encouraged for all students as per the attendance policy and guidance.

### 3.2 The Right to Feel Safe at All Times

All students, staff and visitors have the right to always feel safe in the school and free from the effects of unacceptable behaviour. There should be mutual respect between all members of the school community and the policy should help to foster this. Additional safety measures will be put in place to ensure that students, staff and visitors are safe and that any risk is mitigated. Each policy will need clear and proportionate consequences for misbehaviour and serious breaches which compromise the safety, welfare and education of others.

### **3.3 Inclusivity**

Minerva Learning Trust is an inclusive trust. All members of the Trust's community should be able to work or study, free from any form of discrimination, harassment or bullying (as laid down in the Equality Act, 2010.) To this end each school must have a clear and comprehensive Anti-bullying Policy (within its Behaviour Policy or a separate policy) that is known and understood by all, consistently applied and monitored for its effectiveness. The Anti-bullying Policy must include measures to prevent bullying including cyber bullying and any prejudice based and discriminatory bullying. Measures to protect students from bullying and discrimination because of sex, race, disability, religion or belief, gender reassignment or sexual orientation (protected characteristics) should be clearly set out and regularly monitored for their effective implementation.

### **3.4 Child on child sexual violence and sexual harassment**

The behaviour policy must include what it is and how to minimise the risk of it occurring and what to do when it does occur or is alleged to have occurred. Further guidance can be found in Part five of KCSIE and Departmental advice [Sexual violence and sexual harassment between children in schools and colleges](#)

### **3.5 Engaged Community**

Parents/carers should be encouraged and helped to support their children's education, just as the students should be helped to understand their responsibilities during their time within the school. Parents/Carers and students will be made aware of the behaviour expectations of the school during the admissions process. All schools are encouraged to positively engage with parents and carers to support education of their child. Schools are advised to inform parents when students have breached rules and routines so they can work alongside school to educate and correct these behaviours. Each school's behaviour policy must clearly define the roles and responsibilities of all stake holders.

### **3.6 School Rules & Behaviour Expectations**

Each school's rules, behaviour expectations and relevant sanctions/consequences should be clearly stated in the school's Behaviour Policy. These should set out expected standards of behaviour and be shared with and explained to all students. The Trust Board expects the rules to be consistently applied by all staff. They should be regularly and explicitly communicated to all students, staff, parents and other relevant stakeholders, visually displayed around each school and should be consistently and fairly applied by all staff.

### **3.7 Rewards**

The emphasis will be on encouraging positive behaviour through;

- high expectations
- the modelling of good behaviour
- a focus on learning
- praise and rewards

The Trust Board would like to see a wide range of rewards consistently and fairly applied in such a way as to encourage and reward good behaviour in the classroom and elsewhere. These should be made clear in the Behaviour Policy (or other policies).

Due consideration for praise and rewards should be given when students are in school especially in helping to establish compliance and responsibility around the rules and routines. For home learning schools are encouraged to consider rewarding students efforts whilst at home as a way of engaging and motivating them, impacting positively on their wellbeing.

### **3.8 Unacceptable and Poor Behaviour**

Sanctions for unacceptable / poor behaviour should be known and understood by all staff and students and consistently applied. The range of sanctions should be described in the Behaviour Policy so that students, staff and parents can understand how and when these are applied. Sanctions, when necessary, will enable the student to reflect on, and learn from, their behaviour and to make reparation wherever possible. The focus on positive behaviour, forgiveness and reconciliation will significantly reduce the need for exclusion, however, when making decisions the Headteacher must balance the needs of the individual with those of the wider school community. Where student behaviour places others at risk, the safety of the student body is paramount.

### **3.9 Making Reasonable Adjustments for SEND**

In respect of students with an identified special educational need or disability (SEND), schools must recognise its legal duty under the Equality Act 2010 to prevent students with a protected characteristic from being at a disadvantage and ensure that reasonable adjustments are made to the school's behaviour policy or sanction system to support vulnerable learners and those at risk due to individual and complex need.

The Trust strongly feel that exclusions (suspensions), particularly those that are permanent, must be used only as a very last resort. If it is deemed necessary to permanently exclude a child then the Headteacher must discuss this with the CEO as soon as possible, and before the decision is communicated to the student or parent/carer. In this instance, the DfE and Local Authority guidelines for permanent exclusion must be followed. (Further exclusions guidance is set out below)

### **3.10 Additional Support Strategies**

Schools should highlight in their policy the range of support for students who continue to provide the school with a challenge in terms of behaviour. This should be based on their knowledge and early identification of potentially vulnerable students. This will take into account information shared from other sources including social care and the student's previous setting. The Trust board would like to see a range of successful and supportive strategies to help students to modify and improve their behaviour. This would include any support provided at key transition points.

Where alternative provision is used as a **preventative measure**, prior to engaging with the provider the school must:

- Ensure the offer is appropriate in meeting the child's needs
- Visit the provision to carry out basic H&S checks and assess the suitability
- Carry out relevant safeguarding checks on staff leading the provision
- Ensure the qualifications and experience of staff are adequate in meeting the child's needs
- Ensure parents are fully informed of the school's plans

### **3.11 Power to Use Reasonable Force or Make Physical Contact**

Given the overriding need to keep the students and staff safe, the Headteacher, or representative(s), will utilise their powers to search or use reasonable force to keep individuals from harming, or further harming, themselves or others.

Situations in which reasonable force may be used (including removing disruptive students from classrooms or preventing them from leaving) will be included in the policy documentation of each school.

A definition of 'reasonable force' should be included, which should also explain how and when students may be restrained. The Trust Board expect appropriate staff to be trained in the use of reasonable force and restraint wherever possible.

Within the behaviour policy the school should be clear on their stance around making physical contact with students. The safety of both students and staff is of paramount importance.

### **3.12 Powers of Search and Confiscation**

Each school's Behaviour Policy should make clear the authority to search students for prohibited items and to confiscate where necessary. The Trust Board would expect the Headteacher to inform the CEO, either by email or telephone, as soon as possible when items prohibited by law; weapons, knives and illegal drugs, stolen items, fireworks, pornographic images, any article that has been or is likely to be used to commit an offence, cause personal injury or damage property are brought onto the school premises.

Schools should ensure the Searching and screening students is conducted in line with the DfE's latest guidance on searching, screening and confiscation.

### **3.13 Staff Training**

The Trust Board expects that key staff are adequately trained on the proper use of restraint. Additionally, staff should have access to behaviour management training and any CPD as well as any relevant / required support.



## 4. Student Suspension & Exclusions

### 4.1 Legislation and Statutory Requirements

This section of the policy must be followed by all schools. It outlines the approach schools must follow for exclusions within the statutory framework as defined in the 'The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012'.

This policy is based on the following statutory guidance from the Department for Education: [Exclusion from maintained schools, academies and pupil referral units \(PRUs\) in England](#).

It is also 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

### 4.2 Exclusion/ Suspension Principles

Exclusion is a sanction used by schools in cases deemed as serious breaches of the school's Behaviour Policy.

A student may be at risk of exclusion from school for:

- A serious breach of the school behaviour policy
- Persistent and repetitive disruption of lessons and other students' learning.
- Extreme misbehaviour which is deemed outside the remit of the normal range of sanctions.

In discharging their duties, the Headteacher and Governors will have regard to Department for Education guidance "Exclusion from maintained schools, Academies and pupil referral units in England" which came into force on 1<sup>st</sup> September 2017 and any subsequent DfE updates to this guidance.

They will consider all evidence and ensure that equality is always promoted in relation to SEN, race, gender and disability; Under the Equality Act 2010 ("the Equality Act") schools must not discriminate against, harass or victimise pupils because of their: sex; race; disability; religion or belief; sexual orientation; because of a pregnancy/ maternity; or because of a gender reassignment. For disabled children, this includes a duty to make reasonable adjustments to policies and practices.

Before excluding/ suspending a student, in most cases a range of alternative strategies will have taken place. Where a one-off incident of sufficient gravity has taken place, this may not apply but exclusion/ suspension should always be used as a last resort when all other avenues of support have been exhausted.

### **4.3 The Decision to Exclude/ Suspend**

There are two types of exclusion: fixed term now known as a '**suspension**' and '**permanent**'. There has been a change in terminology from the DFE to clearly differentiate the difference between a short term exclusion and a permanent exclusion. Our schools documentation should reflect this change.

Before deciding whether to exclude a student, either permanently or a suspension the Headteacher will:

1. Undertake a full and thorough investigation.
2. Consider all the relevant facts and firm evidence to support the allegations.
3. Investigate whether the incident may have been provoked by something e.g., bullying, racial or sexual harassment.
4. Consider the school's Behaviour Policy.
5. Enable all students involved to have the opportunity to give their version of events.
6. Consult other people or agencies except where necessary or appropriate.
7. Keep a written record of all actions taken, any interviews with pupils concerned, any staff statements (behaviour report forms and witness statements should be dated and signed, ideally on school witness documentation.)

Once the investigation has been conducted the HT will:

1. Ensure time has been given to addressing and supporting the student's individual problems within the capabilities of School.
2. Aim for the shortest possible period of suspension.
3. Provide relevant and appropriate work to be completed at home.
4. 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.
5. Consider any additional intervention or support that may be necessary.
6. Facilitate reconciliation with other staff and students involved in the related incident as and when this is deemed appropriate and necessary.

### **4.4 Suspension**

A Suspension from the school must only be authorised by the Headteacher or one of the designated staff acting on delegated authority. If none are available to authorise the suspension a decision should be deferred until the opportunity for authorisation is available.

There is a limit of 45 school days in an academic year for Suspensions. A decision to suspend a pupil should also be lawful, reasonable and fair and only in response to breaches of the school's behaviour policy, including persistent disruptive behaviour, where these are not serious enough to warrant permanent exclusion and lesser sanctions are considered inappropriate.

## 4.5 Permanent Exclusion

A decision to exclude a pupil permanently is taken as a last resort and will be taken only:

1. in response to serious or persistent breaches of the school's behaviour policy; and/or
2. if allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

The decision to exclude a pupil must be lawful, rationale, reasonable, fair and proportionate. We have a statutory duty not to discriminate against pupils based on protected characteristics, such as disability or race.

We will consider the fair treatment of pupils from groups who are vulnerable to exclusion.

Disruptive behaviour can be an indication of unmet needs. Where we have concerns about a pupil's behaviour, we will try to identify whether there are any causal factors and intervene early to reduce the need for a subsequent exclusion. In this situation we will give consideration to a multi-agency assessment that goes beyond the pupil's educational needs. It is an acknowledgement by us that we have exhausted all available strategies for dealing with the child and permanent exclusion is used as a last resort.

There will, however, be exceptional circumstances where, in the Headteacher's judgement, it is appropriate to permanently exclude a child for a first or 'one off' offence. These might include:

1. Serious actual or threatened violence against another pupil or a member of staff;
2. Sexual abuse or assault.
3. Supplying an illegal drug; or
4. Carrying an offensive weapon

Exclusion will also be considered for incidents listed in Appendix 1.

A permanent exclusion can **only** be authorised by the Headteacher who must inform the CEO (either by telephone or via email) and the Chair of the Local Governing Body before informing the student or parent/carer. Headteachers must also inform the relevant Local Authority.

The school must regularly monitor the number of Suspensions 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.

The suspension / Permanent exclusion incidents and reasons for these must be shared with governors on a termly basis.

## 4.6 Proof

The standard of proof to be applied is the balance of probabilities, i.e., if it is more probable than not that the pupil did what he or she is alleged to have done, the Headteacher may exclude the pupil. However, the more serious the allegation and thus the possible sanction, the more convincing the evidence substantiating the allegation needs to be. This is not the same as requiring the criminal standard of 'beyond reasonable doubt' to be applied. But it does mean that when investigating more serious allegations, in determining whether it is more probable than not that the pupil has behaved as alleged, Headteachers will need to gather and take account of a wider range of evidence. In some cases, this may extend to evidence of the pupil's past behaviour, if relevant to the seriousness of the present allegation.

## 4.7 Responsibilities of the Headteacher

The Headteacher alone (or the designate if they are absent) has the power to exclude/suspend students.

Exclusion can only be for a breach of the school's behaviour policy, which must be widely published to all pupils and parents and be listed on the school's website. Care must be taken to avoid 'informal' or 'unofficial' suspensions (e.g., sending a child off-site for a 'cooling down' period). However, a pupil whose behaviour at lunchtime is disruptive may be suspended from the school premises for the duration of the lunchtime period.

Exclusions/ suspensions are illegal if they occur for the following reasons, among others:

- Because a child has additional needs/a disability that the school feels it is unable to meet.
- Lack of academic attainment/ability.
- Based on the actions of a pupil's parents; or
- Failure of a pupil to meet specific conditions before reinstatement.

Permanent exclusion should only be used as a last resort where all strategies to change behaviour have failed. This may be in response to persistent breaches of the school's behaviour policy, or for a 'one off' serious breach of the behaviour policy. It must be demonstrated that allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the academy.

Where an excluded pupil has a Statement of Special Educational Needs (SEN) or is on the SEN register, it must be demonstrated that the school has provided extensive support to help the pupil and there should be intervention strategies in place which have been discussed with the pupil and parents.

Headteachers should ensure that the behaviour policy of the academy is reviewed on an annual basis and approved by the Local Governing Body (LGB).

Exclusions/ suspensions must be recorded accurately on the MIS in a timely manner and reported to Governors periodically.

#### **4.8 Duty to inform parent(s)/carer(s) about the exclusion/ suspension.**

Parents/carers must be notified as soon as possible of the decision to exclude/ suspend a student and the reason for the exclusion/ suspension. This must be done on the day of the exclusion/suspension being authorised by either direct phone contact or a face-to-face meeting.

A written confirmation of the reason(s) for the exclusion/suspension must be sent to parents the same day; the letter should also enclose a copy of the School's Behaviour/Exclusion Policy, or guidance of where to access the policy.

The letter will include the following information:

- the reason(s) for the exclusion/ suspension.
- the period of a suspension or, for a permanent exclusion, the fact that it is permanent.
- parent's right to make representations about the exclusion/suspension to the governing body and how the student may be involved in this.
- how any representations should be made; and
- where there is a legal requirement for the governing body to consider the exclusion, that parents have a right to attend a meeting, to be represented at that meeting (at their own expense) and to bring a friend.

In exceptional cases, usually where further evidence has come to light, a further suspension 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.

A student who has been excluded/suspended must have the reason for his/her exclusion/suspension explained to them by a member of staff so that they understand the nature of their misbehaviour.

#### **4.9 Informing the Appropriate Bodies**

The Headteacher will immediately notify the CEO, LGB and the Local Authority (LA) of:

- A permanent exclusion
- Suspensions which would result in the student being excluded for more than five school days (or more than 10 lunchtimes) in a term.
- Exclusions/suspensions 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 students 'home authority' of the exclusion and the reason(s) for it without delay.

For all other suspensions, the Headteacher will notify the LGB and LA once a term.

#### **4.10 Arranging education for students who have been excluded.**

If alternative provision is being arranged, the following information will be included when notifying parents of an exclusion/ suspension:

- 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 a suspension, in which case the information can be provided with less than 48 hours' notice with parents' consent.

Pupils over 18 must be informed and have the right to appeal on their own behalf. Pursuant to the duty of care placed on schools to ensure the welfare of pupils, parents/carers must be advised of an exclusion/suspension prior to the child being sent off-site.

#### **4.11 Students returning from a Suspension**

All students returning from a Suspension are required to attend a reintegration meeting, accompanied by a parent/carer. This meeting will seek to establish practical ways in which further suspensions/ exclusion can be avoided and behaviour modified to acceptable standards in partnership between student, parent and school.

A student should not be prevented from returning after a suspension if a parent is unable to attend a meeting.

Following a suspension, a re-integration meeting will be held involving the student, parents, a member of senior staff and other staff, where appropriate.

If a student has been excluded for 15 days in the last academic year the Chair of Governors will also attend the reintegration meeting to express concern about behaviour.

The following measures may be implemented when a student returns from a suspension:

- Putting a student on a pastoral support programme.
- Agreeing a behaviour contract;
- Putting a student 'on report';
- Internal isolation;
- Holding restorative meetings with appropriate people.

#### **4.12 The role of the Local Governing Body (LGB)**

The LGB's Pupil Disciplinary Committee (PDC) must meet to review the decision of the Headteacher in the following circumstances:

- More than 15 days in one term – must consider the reinstatement of an excluded pupil within 15 school days of receiving notice of a suspension.
- Permanent exclusion - must consider the reinstatement of an excluded pupil within 15 school days of receiving notice of an exclusion.

If the exclusion/suspension would result in a pupil missing a public examination or national curriculum test, the LGB must consider the exclusion/suspension before the date of the exam or test. If it is not practicable for enough Governors to consider the exclusion/suspension before the exam/test, the exclusion/suspension may be considered by a smaller sub-committee if the Trust's articles of association allow them to do so. In such cases, the parents still have the right to make representations to the LGB and must be made aware of the right.

In the instance of a permanent exclusion the school must set up a Governing Body PDC 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.

Where the LGB is legally required to consider the reinstatement of an excluded student they should:

- Not discuss the exclusion with any party outside of the meeting.
- Inform the clerk if there is a conflict of interest in hearing the case e.g., the student is personally known to them or is a relative of family friend. In the event of a conflict of interest the Chair will seek an untainted governor to replace the other.
- Ask for written evidence in advance of the meeting (including witness statements and other relevant information held by the school such as those relating to a student's SEN).
- Where possible circulate any written evidence and information, including a list of those who will be present, to all parties at least five days in advance of the meeting.
- Allow parents and the student to be accompanied by a friend or representative (where a student under 18 is to be invited as a witness, the LGB first seek parental consent and invite parents to accompany their child to the meeting).
- Comply with their duty to make reasonable adjustments for people who use the school and consider what reasonable adjustments should be made to support the attendance and contribution of parties at the meeting (for example where a parent or student has a disability in relation to mobility or communication that has an impact upon their ability to attend the meeting or to make representations); and

- Identify the steps they will take to enable and encourage the excluded student to attend the meeting and speak on their own behalf (such as providing accessible information or allowing them to bring a friend), taking account of the student's age and understanding; or how the excluded student may feed in their views by other means if attending the exclusion meeting is not possible.

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.

Guidance on exclusions is available to Headteachers and LGB members. This will concentrate on the standard of paperwork required for PDC review meetings and should be referred to by Headteachers or those members of staff delegated with responsibility for investigating breaches of behaviour policies.

It is necessary to state here that students should only be excluded for a breach of the academy behaviour policy and that the appropriate exclusion letter and advice note should be sent to parents and copied without delay to The Trust. There should be no delays in gathering evidence and witness statements because the academy and The Trust is under a legal obligation to meet statutory deadlines imposed for governor review meetings.



## 5. Permanent Exclusions

### 5.1 Local Governing Body Pupil Disciplinary Committee

For permanent exclusions, the governing body Discipline Committee will consider the exclusion and 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 PDC 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 PDC will notify, in writing, the Headteacher, parents and the LA of its decision, along with reasons for its decision, without delay.

Where PDC decline to reinstate the student and uphold the permanent exclusion, the PDC decision letter must 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 relevant to the exclusion.
  - That, regardless of whether the excluded student has recognised SEN, parents have a right to require the Local Authority 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; and
  - That if parents believe that the exclusion has occurred because 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 six months of the date on which the discrimination is alleged to have taken place.

Where the PDC decide to direct the reinstatement of the student, the student should be reinstated at the earliest possible convenience. Such consideration will take account of the student's disciplinary record and the likely impact of their continued attendance and behaviour. The Governing Body Discipline Committee may not attach conditions to the re-instatement of a student. The school must arrange suitable full-time educational provision the reintegration of the child can take place and must also consider what support will best help the child's reintegration into school.

## **5.2 Day Six Provision - The Local Authority**

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 school must arrange suitable full-time educational provision. During the exclusion, the school must set work for the pupil to complete and arrange for it to be marked. The school must also consider what support will best help the child's reintegration into school.

## **5.3 Parallel Police Proceedings**

The PDC has no power to delay a hearing beyond the statutory time limit because of police proceedings. If a permanent exclusion is upheld in these circumstances, the parent has 15 days to appeal to the IRP in the normal way.

## **5.4 Removing a Child from the School's Admission's Register**

The Governing Body must ensure that a student's name is removed from the school admissions register if:

- 15 school days have passed since the parents were notified of the PDC's decision to not reinstate the student and no application has been made for an Independent Review Panel by the parent/carer: or
- The parents have stated in writing that they will not be applying for an Independent Review Panel.

Where the opportunity to make an application for an Independent Review Panel has been made by the parent/carer within 15 school days of the Governing Body PDC decision, the school must wait until the review has been determined, or abandoned, and until the governing body has completed any reconsideration that the panel has recommended or directed it to carry out, before removing a student's name from the register.

Where a student's name is to be deleted from the school admissions register because of a permanent exclusion the school must make a return to the local authority.

The return must include all the particulars which were entered in the admission register, the address of any parent with whom the student normally resides and the grounds upon which their name is to be deleted from the admissions register (i.e., permanent exclusion). This return must be made as soon as the grounds for deletion is met and no later than the deletion of the student's name.

Where a student's name is removed from the school register and a discrimination claim is subsequently made, the First-tier Tribunal (Special Educational Needs and Disability) of County Court has the power to direct that the student should be reinstated.

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.

## **5.5 Independent Review Panels (IRP)**

For permanent exclusions, where the Governing Body decides not to reinstate the student, parents/carers will be advised of their right to request the Independent Review Panel (IRP) to review the decision.

Applications for an Independent Review must be made within 15 school days of notice being given to the parents by the Pupil Disciplinary Committee of its decision to not reinstate a student.

Following receipt of an application for review, arrangements must be made by the Local Authority for the Independent Review Panel to be constituted in accordance with DfE guidance below:

It must reconsider that decision within 10 school days of receiving notice to do so.

A panel of 3 or 5 members will be constituted by the Local Authority with representatives from each of the categories below. Where a five-member panel is constituted, two members will come from the school governor's category and two 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 five years, provided they have not been teachers or Headteachers during this time: or
- Headteachers or individuals who have been a Headteacher within the last five years.

A person may not serve as a member of an Independent Review Panel if they:

- Are a member of the Local Authority, or governing body of the excluding school;
- Are the Headteacher of the excluding school, or have held this position in the last five years;
- Are an employee of the Local Authority, or the 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 Local Authority, school, governing body, parents or student, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality; and/or
- Have not had the required training within the last two years (see appendix 1 for what training must cover).

The Chair of the PDC, the school Headteacher and the child's parent/carer will be invited to attend and give representation at the IRP meeting. Both parties will also be given the opportunity to submit written representation in advance of the meeting.

Following the meeting, the Independent Review Panel will decide one of the following:

- Uphold the LGB's decision.
- Recommend that the governing body reconsiders reinstatement; or
- Quash the 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. The meeting may be held online.

## **5.6 Reconsideration of Reinstatement following an IRP Recommendation**

If the IRP recommends that the governing body reconsiders reinstatement or quash the governing body's decision and direct that they reconsider reinstatement it is important that the governing board reconsiders reinstatement conscientiously, using a thorough process.

The process to set up a PDC to reconsider the original decision will be led centrally by the Trust who will work with the Headteacher of the school and the Chair of the LGB to re-convene a new panel and appoint a new PDC Chair.

In reconsidering the original decision, the Trust can appoint whichever governors it sees fit to make the decision. However, it is recommended that the governors/trustees that served on the panel that made the original decision are not asked to reconsider it.

The governors/trustees involved in reconsidering the original decision are not required to receive representations or hear evidence from relevant parties. However, it is important that any new information and evidence that is relevant to the exclusion is considered at the meeting. It is also important that clear minutes are taken by an independent and professional Clerk.

If, in the case of a governing board receiving a direction to reconsider the exclusion decision, it decides not to offer to reinstate the student, £4000 may be removed from a maintained school's budget.

In the case of an academy, the trust may be required to make a direct payment of £4000 to the LA. Whatever the decision, the governing board must immediately give written notification of their decision to the parents, the Headteacher, the LA and, where relevant, the home authority.

If the governing board decides to reinstate the student, it will need to determine the date of the reinstatement and notify the Headteacher and the parents immediately. A student may not wish to return to the school, but, either way, the decision should be noted on their educational record. As in stage two, a student's intention (or otherwise) to return to the school on reinstatement should not affect the panel's decision to reinstate. It should be based purely upon whether, considering the IRP's recommendations, the school would have made the same decision.

Further information on the process can be accessed by contacting the Central Team for a copy of the Standard Operating procedure.

## **5.7 Principles of Natural Justice**

If a permanent exclusion is upheld, parent(s) must be told of their right to seek an independent review of the decision reached by Governors, and the deadline for seeking a review. They also have the right to have a SEN expert attend the independent review panel meeting (IRP). When Schools write to the parent(s) communicating the decision reached by Governors details of the right of independent review are also given. The parent(s)/carers have 15 school days (from the date when notified of the PDC decision) to seek an IRP meeting.

All decisions to exclude are based on a balance of probabilities – both by Headteachers and at any subsequent review. In making their decisions to exclude Headteachers must ensure that their decisions are fair and based on the facts of the incident and do not include any elements of discrimination. Where a PDC reviews a decision to exclude, the latter issue will be tested.

Members of the PDC should be impartial, unprejudiced, have taken no previous part in the case, and have no personal or school interest in its result. Headteachers should not discuss individual exclusions with members of their governing body as cases may be referred to the PDC for review.

Parent(s) should be informed of the case put forward by the school and have an opportunity to challenge it.

Both parties should be allowed to present their case without unreasonable interruption. Parent(s) should be able to bring a friend or adviser with them.

All documents to be used in evidence should be distributed to all parties at least five working days before the hearing.

If new material is introduced at the hearing, all parties must have time to consider it. No party to the hearing should be in the presence of the PDC unless the other party is also present. Everyone should feel that they have had a chance to put their case and have been listened to.

## **Appendix 1 - Incidents that may result in Exclusion/ Suspension**

### **Physical assault against pupils includes:**

- Fighting
- Violent behaviour
- Wounding
- Obstruction and jostling

### **Physical assault against an adult include:**

- Violent behaviour
- Wounding
- Obstruction and jostling

### **Verbal abuse/threatening behaviour against pupils includes:**

- Threatened violence
- Aggressive behaviour
- Swearing
- Homophobic abuse and harassment
- Verbal intimidation
- Carrying an offensive weapon

### **Verbal abuse/threatening behaviour against an adult includes.**

- Threatened violence
- Aggressive behaviour
- Swearing
- Homophobic abuse and harassment
- Verbal intimidation
- Carrying an offensive weapon

### **Bullying includes:**

- Verbal
- Physical
- Cyber-bullying
- Prejudice based bullying
- Discriminatory bullying
- Homophobic bullying
- Racist bullying

### **Racist abuse includes:**

- Racist taunting and harassment
- Derogatory racist statements
- Swearing that can be attributed to racist characteristics
- Racist bullying
- Racist graffiti

**Sexual misconduct includes:**

- Sexual abuse
- Sexual violence
- Sexual assault
- Sexual harassment
- Lewd behaviour
- Sexual bullying
- Sexual graffiti

**Drug & Alcohol related includes:**

- Possession of illegal drugs
- Inappropriate use of prescribed drugs
- Drug dealing
- Smoking
- Alcohol abuse
- Substance abuse

**Damage (includes damage to school or personal property belonging to any member of the school community)**

- Vandalism
- Arson
- Graffiti

**Theft includes:**

- Stealing school property
- Stealing personal property (pupil or adult)
- Stealing from local shops on a school outing
- Selling and dealing in stolen property

**Persistent disruptive behaviour**

- Challenging behaviour
- Disobedience
- Persistent violation of school rules