

## School Exclusions Policy

A policy for all Trust schools

**November 2020**

Responsibility for this policy:	CEO
Responsibility for implementation:	Executive Headteacher/Headteacher/Head of School
Date of next review:	November 2022 or as required
Links to policies:	Behaviour Management: Trust Principles Safeguarding and Child Protection Scheme of Delegation for Decision-Making in Schools Special Educational Needs and Disabilities Schools' policies on behaviour management

*Creating futures through our shared values of excellence, partnership and perseverance*



## LIST OF CONTENTS

1	Introduction	p3
2	Aims of the policy	p3
3	Legislation and regulations	p3
4	Aligning with the Trust's vision	p4
5	Equality and inclusion	p5
6	Behaviour management in our schools	p5
7	Fixed term and permanent exclusions	p5
8	Unlawful practice warnings	p6
9	Part-time timetables	p6
10	Pupils with SEND	p7
11	Duty to inform parents/carers	p7
12	Use of remote access meetings	p7
13	Decision to permanently exclude	p8
14	Police involvement and parallel criminal proceedings	p8
15	Disciplinary panel hearing	p8
16	Independent review panel (IRP)	p10
17	School registers	p10
18	Return to school following fixed-term exclusion	p11
19	Reporting and monitoring arrangements	p11
20	Review arrangements	p11
21	Limiting future exclusions – identifying pupils at risk	p11

## 1 INTRODUCTION

This policy sets out the Trust's expectations for all our schools

- Create Partnership Trust is committed to inclusion and seeks every means to avoid exclusion.
- The Trust recognises that work around exclusion is complex, challenging and often emotionally draining for all parties.
- The Trust has a set of principles for behaviour management which are implemented across its schools. These include the promotion of inclusion but also the recognition that in rare cases, fixed-term or permanent exclusions might be necessary.
- Each school has its own behaviour policy, kept up to date and published on its website
- Should our schools decide to exclude, we ensure that all decisions follow Department for Education (DfE), Local Authority (LA) and Trust guidelines, are fully evidenced and monitored and take account of the particular context and circumstances.
- The Trust does not expect exclusions to take place without schools actively seeking alternative strategies.
- Schools which exclude the same pupils many times must review and be able to justify the effectiveness of that sanction.
- The Trust expects the schools to demonstrate good communications with parents/carers and involvement with appropriate outside agencies.
- This policy is not intended to replace or repeat the contents of school behaviour policies or the Trust's agreed behaviour management principles.

## 2 AIMS OF THE POLICY

- To support the safety, emotional security and well-being of all pupils including those with one or more protected characteristics (Equality Act 2010)
- To support all staff in their management of behaviour
- To ensure compliance with legislation in relation to exclusions and adherence to our statutory duties and guidance from the DfE and LA.
- To ensure that any exclusion procedure is applied fairly and consistently
- To ensure that the exclusions process and responsibilities are understood and adhered to by all stakeholders: staff, pupils, parents/carers, Local Advisers and Trustees
- To ensure that the principles of natural justice apply to all aspects of the exclusion process

## 3 LEGISLATION AND REGULATIONS

All our schools must operate in accordance with the law as set out in:

- Section 51A of the Education Act 2002, as inserted by the Education Act 2011
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- Sections 100 to 108 of the Education and Inspections Act 2006
- The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007, as amended by Regulations 2014

And specifically:

- The policy is based on the DfE revised guidance (effective September 2017) ***Exclusion from Maintained Schools, Academies and Pupil referral Units in England – a guide for those with legal responsibilities in relation to exclusion***. It provides a guide to the legislation that governs the exclusion of pupils and statutory guidance for those in positions of responsibility when carrying out their functions.
- This policy complies with the Trust's funding agreement and articles of association.

**Other references**

- **Equality Act 2010:** taking account of the full range of a pupil’s protected characteristics but not discriminating because a pupil has one or more protected characteristics.
- **SEN Code of Practice, 2015:** protection of pupils with special educational needs
- **Disability Discrimination Act, 2005:** the Disability Equality Duty

**4 ALIGNMENT WITH THE TRUST’S VISION**

**Supporting key objectives**

The Trust has four key objectives summarised in this diagram, the third and fourth of which – SUPPORT and LEAD – are reflected in this policy.



**SUPPORT:** early intervention and improved transition – meeting the needs of pupils so that barriers to learning are quickly identified and removed as soon as possible, especially for the most vulnerable pupils and their families

**LEAD:** Staff recruitment, retention, leadership development and succession planning – *providing a strategic approach which invests in the staff, building their skills so that they, the schools and the Trust strengthen.*

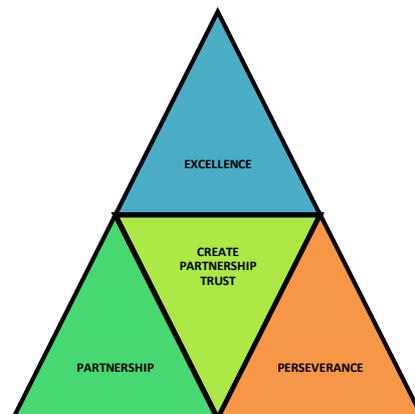
**Contributing to the Trust’s values**

This Exclusions Policy contributes to our Trust core values:

**EXCELLENCE** (setting the highest possible standards and expectations),

**PARTNERSHIP** (working collaboratively) and

**PERSEVERANCE** (responding to difficult challenges).



## 5 EQUALITY AND INCLUSION

- All learners are equally valued in our schools.
- We have a duty to avoid discrimination, promote equality and foster good relations.
- Nationally, some groups of pupils have higher exclusion rates than average – including pupils with SEND, disadvantaged and certain ethnic groups (predominantly Gypsy/Roma, Travellers of Irish heritage and Caribbean).
- It is therefore crucial that at school level and Trust level, there is a full analysis of the data pertaining to excluded pupils.

## 6 BEHAVIOUR MANAGEMENT IN OUR SCHOOLS

Although there are slight differences in approach (depending on the school's context), all our schools promote an inclusive ethos, ensuring that they:

- Reward and praise pupils
- Encourage pupils' independence and self-management of behaviour
- Enable pupils to understand that poor behaviour has consequences
- Ensure that all stakeholders are aware of the school's expectations with regard to pupils' behaviour and its management
- Keep staff up-to-date via training, delegation of responsibilities and the setting of high expectations
- Ensure early intervention with pupils who show signs of disruptive behaviour, including the engagement of parents/carers
- Understand and empathise with vulnerable pupils and families, including both potential *victims* and *perpetrators*
- Recognise pupils' special educational needs and disabilities (SEND) and protected characteristics
- Are consistent, fair and respectful to all
- Provide clear guidelines and expectations for pupils and families
- Communicate with pupils and families when behaviour falls below expectation
- Record and track pupils' behaviour accurately
- Establish internal support systems (e.g. provision of mentoring or one to one support)
- Access external support systems (e.g. referrals to specialist organisations)
- Analyse outcomes, especially in terms of pupil groupings and protected characteristics (gender, ethnicity, SEND, disadvantaged, etc)
- Report all exclusions immediately to the CEO and at least termly in writing via the School Profile to the CEO and the Board of Directors (Trustees)
- Publish the school's behaviour policy to all staff, pupils and parents/carers.

## 7 FIXED TERM AND PERMANENT EXCLUSION

- There are two types of exclusion: fixed-term and permanent.

A pupil may only be excluded:

1. In response to **serious breaches** of the school's policy **and**
2. If allowing the pupil to remain at the school would seriously harm the education or welfare of the pupil or others in the school.

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

- Ensure a thorough investigation of the incident with a written report
- Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked
- Consider the relevant school and Trust policies
- Allow the pupil to give their version of events and/or witness statements

- Consider if the pupil has special educational needs or disabilities (SEND), paying due regard to the SEND Code of Practice (2015)
- Pay due regard to the Equality Act (2010)

There may be a number of incidents which build up over time or a serious single incident which requires action.

The guidance states:

- There is a limit of 45 days per year (15 days per term) for fixed-term exclusions.
- The law does not allow for *converting* a fixed-term exclusion to a permanent one. The school may issue a fixed-term exclusion, pending further investigation. If further evidence comes to light, the school can issue a further fixed-term exclusion to begin immediately after the first one ends, or it may issue a permanent exclusion.
- On the sixth day of a fixed-term inclusion, the school must arrange suitable full-time education. Where a pupil receives consecutive fixed-term inclusions, these are regarded as a cumulative period of exclusions for the purposes of this duty.
- On the sixth day of a permanent exclusion, the Local Authority must arrange suitable full-time education.
- The Trust's Disciplinary Panel must review all permanent exclusions and any fixed-term exclusions which result in more than 15 days (singly or cumulatively) in one term and 45 days annually or where parents have made representations.
- Where a pupil has SEND, the school must demonstrate it meets the requirements of the SEND Code of Practice and has provided extensive means of support to help meet the pupil's needs.
- A pupil whose behaviour at lunchtime is disruptive may be excluded for the lunchtime period; however, this must be undertaken formally and it must be classified as a half day fixed-term exclusion and be included in the annual limit of 45 days.
- For the purposes of exclusions, a 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 Disciplinary Panel which, according to experience, availability and impartiality in the case, comprises three people:

- CEO/Trustee
- One other Trustee or Local Advisory Board member
- EHT or HT

## 8 UNLAWFUL PRACTICE WARNINGS

Exclusions are illegal if they occur for non-disciplinary reasons; eg

- A pupil's additional needs which the school is unable to meet
- A pupil's low academic ability or achievement
- The actions of a pupil's parent/carer
- The failure of a pupil to meet specific conditions before reinstatement

The school must avoid *informal* or *unofficial* exclusion arrangements, whereby a pupil is sent home for a *cooling off* period.

The practice of *off-rolling* is unlawful. This is defined by Ofsted as:

*...the practice of removing a pupil 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 pupil.*

## 9 PART-TIME TIMETABLES

- As a general rule, our schools are not permitted to place a pupil of statutory school age on a part-time timetable for behavioural reasons, except in very exceptional circumstances where temporary arrangements are made to meet a pupil's needs. In these cases, there must be written clarification from the EHT/HT to the CEO and the Board (via the School Profile), giving the reasons for the decision and the expected length of time.
- Pupils on part-time timetables for behavioural reasons are viewed as being *unofficially excluded*.

## 10 PUPILS WITH SEND

- The EHT/HT should, as far as possible, avoid permanently excluded any pupil who has an Education, Health and Care (EHC) Plan or is a Looked after Child (LAC)
- In line with the SEND Code of Practice (2015), our schools are expected to have clear processes to support pupils, including managing the effect of any disruptive behaviour, so it does not adversely affect other pupils.
- The Statutory Guidance (2017) states that early intervention to address disruptive behaviour should include an assessment of whether appropriate provision is in place to support any SEN or disability that a pupil may have. Particular regard should be paid to whether disruptive behaviour is an indication of an underlying social, emotional or mental health (SEMH) need.

## 11 DUTY TO INFORM PARENTS/CARERS

- Parents/carers must be informed immediately and in writing, of the length and type of exclusion and of their right to make representations to EHT/HT.
- Pursuant to the duty of care placed on schools to ensure the safeguarding and welfare of pupils, parents/carers must be advised of an exclusion before any pupil is sent off site. If it is the end of the school day and parents are not available, they should be contacted to ask them to come to the school the following morning.

Parents/carers are informed of:

- the reason for the exclusion
- the length of a fixed term exclusion or if it is a permanent exclusion
- their right to make representations to the Trust's Disciplinary Panel and to be represented at or accompanied to the Panel hearing
- their legal duty to ensure that their child is not present in a public place during school hours in the first five days of an exclusion or until the start of any alternative provision (where this is earlier), without good reason.

In most cases, alternative provision arrangements are made by the LA.

If alternative provision is being arranged by the school, the following information is included in the notification to parents:

- the start date for any alternative education provision
- the start and finish times of any such provision, including the times for morning and afternoon sessions, where possible
- the address where the provision will take place
- any information required by the pupil to know who s/he should report to on that day

## 12 USE OF REMOTE ACCESS MEETINGS

The Trust encourages face to face meetings with parents, external agencies and representatives and Disciplinary Panel Hearings. However, sometimes this is impossible. The Trust therefore approves of the use of online meetings if the following conditions can be satisfied:

- All parties can agree to the use of remote access
- All parties can access the technology which allows them to hear and speak through the meeting and to see and be seen if a live video link is being used
- All parties will be able to put across their point of view or fulfil their function
- The meeting can be held fairly and transparently via remote access

DfE guidance states: *though all participants must have agreed to the use of remote access, where a parent... has given their agreement..., the other participants must make reasonable efforts to accommodate that preference unless there is a reasonable reason not to do so.*

### 13 DECISION TO PERMANENTLY EXCLUDE

- Permanent exclusion is always seen as a last resort, where all other alternatives have been considered and all strategies to change behaviour have been exhausted. The EHT/HT must have evidence that the range of strategies have been attempted, as outlined in the school's behaviour policy.
- Only the most senior teacher in the school can exclude a pupil. This is the EHT or HT. Should the EHT/HT be unavailable, then the next most senior teacher may have to take action (especially if the matter is urgent); i.e. the Head of School (HoS) or Deputy Headteacher (DHT). However, in these cases, the matter must be discussed with the CEO before any decision is made.
- Should the CEO be unavailable, the school leader is encouraged to contact and seek advice from the LA Exclusions Team, with whom the Trust works closely. In general terms, and with the exception of the most rare or urgent of circumstances, the exclusion should be delayed until the EHT/HT are available.
- The Trust's *Scheme of Delegation: Decision-Making in Schools* makes it clear that the EHT/HT must immediately report to the CEO any decision to permanently exclude a pupil. The CEO must consider the rationale for the exclusion in broad terms and approve the decision in the first instance. The CEO should not be given full details of the case at this stage because they will be explained in more depth at the Disciplinary Panel Hearing.
- Unless the permanent exclusion is the result of a single incident of sufficient gravity, there should be no surprises. School leaders should have detailed records of incidents, their consequences and supportive interventions and should keep the Trust informed via their reports and meetings.

### 14 POLICE INVOLVEMENT AND PARALLEL CRIMINAL PROCEEDINGS

- Where investigations by the school into pupils' conduct might indicate possible criminal proceedings, the school should seek advice from the LA Exclusions Team, keeping the CEO fully informed at all stages.
- Advice should also be taken from the Police or a solicitor if there are any witness statements which might be used at a subsequent Disciplinary Panel Hearing, particularly if there are still ongoing police investigations.
- The EHT/HT is not required to postpone the decision to permanently exclude a pupil, simply because of the possibility that criminal proceedings might be brought. In these circumstances, a judgement must be made on the basis of the evidence available.

### 15 DISCIPLINARY PANEL HEARING

#### Remote access

- If a decision is made to proceed with a Disciplinary Panel Hearing virtually, the EHT/HT ensures that all participants are made aware of how to use the technology.
- Parents/carers are made aware that they do not have to agree to a virtual Hearing. If they do not agree to it, then the EHT/HT will need to explain that the Hearing could be delayed.
- Once the Hearing has commenced, if there are technological problems which lead to participants being unable to contribute fairly, the Chair may decide to adjourn the Hearing.
- The use of a virtual meeting does not change any other procedural requirements; e.g. being accompanied by representatives or witnesses.

#### Timescales

The timescales for communications and meetings are set out in DfE and LA guidance. The most up-to-date guidance should be checked at the point of exclusion because sometimes other short-term or temporary arrangements are introduced (e.g. during the partial lockdown of schools, summer 2020).

#### The Disciplinary Panel

The Trust must review:

- a permanent exclusion
- fixed term exclusions of a pupil for more than 15 days over a term
- any exclusion where parents have made representation.

The Panel will consider the school's rationale for the decision and any representations from the parents/carers.

The Panel of three people will be made up of the CEO/Trustee (as Chair), another Trustee (or Local Adviser) and an EHT/HT. No member of the Panel should have had a previous connection with the pupil, the parent/carer or the case. If the CEO cannot be involved, then another Trustee or EHT/HT should be recruited. A Clerk should be appointed.

For **fixed-term exclusions**, there is no obligation for the Panel to meet in the case of one or more fixed-term exclusions totalling 15 days or less in one term, unless a parent/carer chooses to make representation. Although the Panel cannot overturn the decision of the EHT/HT, they are advised to hear the views of the parent/carer and place a note of the outcome of that meeting on the pupil's educational record.

However, the Trust will raise significant concerns if a large number of fixed-term exclusions take place and it expects that this would be a rare event. The data around exclusions is monitored by the CEO.

In the case of a **permanent exclusion**, the panel has a choice of two decisions:

1. To reinstate the pupil at the school
2. To uphold the school's decision to permanently exclude the pupil

### Before the Hearing

The Disciplinary Panel must:

- Convene its Hearing by the 15<sup>th</sup> school day after the date of receipt of the exclusion letter.
- Invite all parents/carers and the EHT/HT together with the LA officer (asked to give an external objective view of the school's decision).
- Inform parents/carers that they may bring a friend or representative.
- Ensure that if another pupil is to be called as a witness (which is rare), her/his parents/carers must be in attendance.
- Ensure reasonable adjustments are made to support the attendance and contribution of all participants.
- Ask for the report from the EHT/HT to be circulated to all parties at least 5 school days before the meeting.
- Consider the surroundings where the meeting is to take place (preferably not on the school site) or if it is to be held virtually.
- Ensure that the Panel members are not drawn into discussions with any of the parties to the proceedings before the Hearing or during an adjournment.
- Ensure that they receive hard copies of the documents and not emailed pupil or family data.

### During the Hearing

- The Trust follows the most recent advice from the LA Exclusions Team in terms of the format and ethos of the Hearing.
- The panel considers all representations from the school, the parents/carers and the LA officer and invites all present to ask questions.
- The EHT/HT and the parents/carers are invited to sum up their case.
- The LA officer is asked to comment on the decision and the way the school has managed the process and to advise the parents of the next steps if the exclusion is upheld.
- If a new issue arises during the Hearing, parties must be given an opportunity to consider and comment. This may lead to an adjournment of the Hearing if any of the parties require information which is not immediately available.
- The Panel remains to make the decision with the Clerk in attendance.

### The decision

- When establishing facts, the Panel applies the civil standard of proof; i.e. *on the balance of probabilities* rather than the criminal standard of *beyond reasonable doubt*.
- The Panel considers whether the school's decision to exclude was lawful, reasonable and procedurally fair.

- Where reinstatement is not practical because for example, the pupil has already returned to the school following the expiry of a fixed-term exclusion or where the parents/carers make it clear that they do not want their child reinstated, the Panel must, in any event, consider whether the decision to exclude was justified, based on the evidence.
- The Panel should consider whether it has sufficient information to make its decision, which must be careful and even-handed. The role of the Panel is not to automatically accept the EHT/HT's judgement of the matter.
- The school keeps the minutes of the Hearing and all documentary evidence relating to the case. A record of the outcome is attached to the pupil's educational record.
- The members of the Disciplinary Panel ensure that the papers for the case are sent to confidential waste.

### The outcome

Either:

#### 1. To reinstate the pupil at the school

- The Chair completes and signs a Notes of Decision Form
- The Chair or the Clerk writes to the parents/carers without delay to confirm the Panel's decision and the date on which the pupil should return to the school
- The Clerk forwards copies of the Notes of Decision Form and the letter to parents to the LA Exclusions Team and the EHT/HT.

or:

#### 2. To uphold the school's decision to permanently exclude the pupil

- The Chair completes and signs a Notes of Decision Form
- The Chair or the Clerk writes to the parents/ carers without delay giving the decision of the Panel and the reasons why it arrived at the decision. The letter also gives further guidance on the right to an Independent Review Panel (IRP) and access to other supportive organisations or documents (e.g. Special Educational Needs and Disability Information, Advice and Support Service (SENDIASS) and other exclusions guidance in relation to Travellers, autism and other disabilities).
- The Clerk forwards copies of the Notes of Decision Form and the letter to parents to the LA Exclusions Team and the EHT/HT.

The appropriate forms, letter templates and guidance notes are supplied by the LA. They are not included in this policy as they can become rapidly out-of-date. All are presented using Trust branding and letterhead.

The Panel will seek subsequent assurance from the EHT/HT that every possible support has been given to the pupil to help her/him access alternative education and that the school is making a full commitment to working with all appropriate support agencies to ease transition.

## 16 INDEPENDENT REVIEW PANEL (IRP)

The IRP is channelled through the LA and gives parents/carers the opportunity to take their concerns to the next level. The Trust has no involvement at this point, except insofar as the EHT/HT will be asked to present the school's evidence.

## 17 SCHOOL REGISTERS

A pupil's name will be removed from the school admissions register if:

- The appropriate time period has passed since the parents were notified of the Disciplinary Panel's decision not to reinstate the pupil and no application has been made for an IRP. This period of time is usually 15 school days – but this is clarified exactly on the outcome letter to parents/carers.

or:

- The parents have stated in writing that they will not be applying for an IRP

If an application by parents/carers has been made for an IRP, the school will not remove the pupil's name from the register until the IRP has concluded.

The school pays particular attention to the register coding to ensure accuracy for pupils attending alternative provision (code B – education off-site) as distinct from not attending alternative provision (code E – absent)

## **18 RETURN TO SCHOOL FOLLOWING A FIXED TERM EXCLUSION**

- Every fixed-term exclusion must be followed by a re-integration meeting at the school. This should involve the pupil, parents/carers, a senior leader and other appropriate staff (such as the class teacher or learning mentor).
- Each school makes its own arrangements in line with its behaviour policy.
- The re-integration meeting is intended to be positive and welcoming but clear about expectations and the code of conduct. Appropriate apologies or mediation may be required, especially if any other pupils have been involved in an incident or have been victims of the pupil's aggression.
- The aim is to secure long-term success.

## **19 REPORTING AND MONITORING ARRANGEMENTS**

- EHT/HT reports all exclusions (fixed term and permanent) immediately to the CEO
- EHT/HT reports all exclusions termly in the School Profile to the CEO and the Board (via the Curriculum and Resources Committee – CRC)). Information is recorded in terms of protected characteristics and pupil groupings (gender, ethnicity, age, SEND, disadvantaged). The School Profile also includes data on the number of serious behavioural incidents below exclusion.
- The CEO tracks and monitors all incidents of exclusion and holds discussions with the EHT/HT/HoS as part of regular school visits and communications.
- Create Central tracks all exclusions across the Trust and undertakes local and national benchmarking with regard to the number and type of incidents and the pupil groupings.
- The CEO reports the outcomes of Disciplinary Panel Hearings and any other important matters relating to exclusions, to the CRC and the Board.

## **20 REVIEW ARRANGEMENTS**

- In order for the school and the Trust to learn from the experience of exclusion (predominantly where it has been permanent but also where there are a number of fixed-term exclusions, involving the same pupil), the EHT/HT is asked to include a paragraph to this effect in the next School Profile to the CEO and the Board. Individual pupil data is not included.

## **21 LIMITING FUTURE EXCLUSIONS – IDENTIFYING PUPILS AT RISK**

- In consideration of the statutory guidance (2017), the Trust takes a proactive approach to exclusions, underpinned by the principles of *early intervention*.
- To limit the possibilities of future exclusions (fixed-term or permanent), the EHT/HT is asked to provide information in the School Profile about pupils at risk of exclusion - how they are being monitored and supported to mitigate that risk. Individual pupil data is not included.
- In order to decide the appropriate threshold for a pupil at risk, this is very much the decision of the EHT/HT working with other senior leaders to interpret concerns at pupil level, on a case-by-case basis. It will involve consideration of the school's behaviour policy, the safeguarding and SEND provision and the quality of teaching that the pupil receives.
- The Trust expects concerns to be raised and risks identified if any exclusion has taken place.