

EXCLUSIONS POLICY



|  |  |
| --- | --- |
| Name of Policy | Exclusion |
| Policy Level | Trust |
| Date of Issue | September 2019 |
| Author | Board of Trustees |
| Date of Next Review | September 2020 |
| Signature | Dr Jonty Clark |
| Date of Signature | September 2019 |

# Aims

This policy aims to ensure:

* ***The exclusions process is applied fairly and consistently taking into consideration the special educational needs of the pupil***
* ***The exclusions process is understood by governors, staff, parents and pupils***
* ***Pupils in school are safe and happy***
* ***Pupils do not become NEET (not in education, employment or training)***

# Legislation and statutory requirements

This policy is based on statutory guidance from the Department for Education: [Exclusion from maintained schools, academies and pupil referral units (PRUs) in England](https://www.gov.uk/government/publications/school-exclusion).

It is based on the following legislation, which outline schools’ powers to exclude pupils:

* ***Section 52 of the*** [***Education Act 2002***](http://www.legislation.gov.uk/ukpga/2002/32/section/52)***, as amended by the*** [***Education Act 2011***](http://www.legislation.gov.uk/ukpga/2011/21/contents/enacted)
* [***The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012***](http://www.legislation.gov.uk/uksi/2012/1033/made)
* ***Sections 64-68 of the*** [***School Standards and Framework Act 1998***](http://www.legislation.gov.uk/ukpga/1998/31)

In addition, the policy is based on:

* ***Part 7, chapter 2 of the*** [***Education and Inspections Act 2006***](http://www.legislation.gov.uk/ukpga/2006/40/part/7/chapter/2)***, which looks at parental responsibility for excluded pupils***
* ***Section 579 of the*** [***Education Act 1996***](http://www.legislation.gov.uk/ukpga/1996/56/section/579)***, which defines ‘school day’***

***The*** [***Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007***](http://www.legislation.gov.uk/uksi/2007/1870/contents/made)***, as amended by*** [***The Education (Provision of Full-Time Education for Excluded Pupils) (England) (Amendment) Regulations 2014***](http://www.legislation.gov.uk/uksi/2014/3216/contents/made)

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

# 3. The decision to exclude

Only the Headteacher, or acting Headteacher, can exclude a pupil from school. A permanent exclusion will be taken as a last resort.

Our school is aware that off-rolling is unlawful. Ofsted defines off-rolling 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.”**

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 pupil will be taken only:

* ***In response to serious or persistent breaches of the school’s behaviour policy, and***
* ***If allowing the pupil to remain in school would seriously harm the education or welfare of others***

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

* ***Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked***
* ***Allow the pupil to give their version of events***
* ***Consider the pupil’s special educational needs (SEN)***

# 4. Definitions

For the purposes of exclusions, a school day is defined as any day on which there is a school session. Therefore, INSET or staff training days do not count as a school day.

# 5. Roles and Responsibilities

5.1 The Headteacher

**Informing parents**

The headteacher will immediately provide the following information, in writing, to the parents of an excluded pupil:

* ***The reason(s) for the exclusion***
* ***The length of a fixed-term exclusion or, for a permanent exclusion, the fact that it is permanent***
* ***Information about parents’ right to make representations about the exclusion to the governing board and how the pupil may be involved in this***
* ***Where there is a legal requirement for the governing board to meet to consider the reinstatement of a pupil, and that parents have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend***

The Headteacher will also notify parents by the end of the afternoon session on the day their child is excluded that for the first 5 school days of an exclusion, or until the start date of any alternative provision where this is earlier, parents are legally required to ensure that their child is not present in a public place during school hours without a good reason. Parents may be given a fixed penalty notice or prosecuted if they fail to do this.

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

* ***The start date for any provision of full-time education that has been arranged***
* ***The start and finish times of any such provision, including the times for morning and afternoon sessions, where relevant***
* ***The address at which the provision will take place***
* ***Any information required by the pupil to identify the person they should report to on the first day***

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 an exclusion, in which case the information can be provided with less than 48 hours’ notice with parents’ consent.

**Informing the Governing Body/Board of Trustees and Local Authority**

The Headteacher will immediately notify the governing body and the local authority (LA) of:

* ***A permanent exclusion, including when a fixed-period exclusion is made permanent***
* ***Exclusions which would result in the pupil being excluded for more than 5 school days (or more than 10 lunchtimes) in a term***
* ***Exclusions which would result in the pupil missing a public examination***

For a permanent exclusion, if the pupil lives outside the LA in which the school is located, the Headteacher will also immediately inform the pupil’s ‘home authority’ of the exclusion and the reason(s) for it without delay.

For all other exclusions, the Headteacher will notify the governing board, The Trustees and LA once a term.

# 6. Considering the reinstatement of a pupil

The Board of Governors will consider the reinstatement of an excluded pupil within 15 school days of receiving the notice of the exclusion if:

* ***The exclusion is permanent***
* ***It is a fixed-term exclusion which would bring the pupil's total number of school days of exclusion to more than 15 in a term***
* ***It would result in a pupil missing a public examination***

If requested to do so by parents, The Board of Governors will consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion if the pupil would be excluded from school for more than 5 school days, but less than 15, in a single term.

Where an exclusion would result in a pupil missing a public examination, the Governors will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, they will consider the exclusion and decide whether or not to reinstate the pupil.

They can either:

* ***Decline to reinstate the pupil, or***
* ***Direct the reinstatement of the pupil immediately, or on a particular date***

In reaching a decision, The Governors 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 pupil’s educational record.

The Governors will notify, in writing, the Headteacher, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, The Governor’s decision will also include the following:

* ***The fact that it is permanent***
* ***Notice of parents’ right to ask for the decision to be reviewed by an independent review panel, and:***
	+ ***The date by which an application for an independent review must be made***
	+ ***The name and address to whom an application for a review should be submitted***
	+ ***That any application should set out the grounds on which it is being made and that, where appropriate, reference to how the pupil’s SEN are considered to be relevant to the exclusion***
	+ ***That, regardless of whether the excluded pupil has recognised SEN, parents have a right to require The Trust to appoint an SEN expert to attend the review***
	+ ***Details of the role of the SEN expert and that there would be no cost to parents for this appointment***
	+ ***That parents must make clear if they wish for an SEN expert to be appointed in any application for a review***
	+ ***That parents may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents may also bring a friend to the review***
* ***That if parents believe that the exclusion has occurred as a result of discrimination, they may make a claim under the Equality Act 2010 to the first-tier tribunal (special educational needs and disability), in the case of disability discrimination, or the county court, in the case of other forms of discrimination. A claim of discrimination made under these routes should be lodged within 6 months of the date on which the discrimination is alleged to have taken place***

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

# 8. School registers

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

* ***15 school days have passed since the parents were notified of the exclusion panel’s decision to not reinstate the pupil and no application has been made for an independent review panel, or***
* ***The parents have stated in writing that they will not be applying for an independent review panel***

Where an application for an independent review has been made, the governing board will wait until that review has concluded before removing a pupil’s name from the register.

Where alternative provision has been made for an excluded pupil and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.

Where excluded pupils are not attending alternative provision, code E (absent) will be used.

# 9. Returning from a fixed-term exclusion

Following a fixed-term exclusion, a reintegration meeting will be held involving the pupil, parents, a member of senior staff and other staff, where appropriate.

The following measures may be implemented when a pupil returns from a fixed-term exclusion:

* ***Agreeing a behaviour contract***
* ***Amending the EHCP***
* ***Putting a pupil ‘on report’***

#

# 10. Monitoring arrangements

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

This policy will be reviewed by the Headteacher every year. At every review, the policy will be shared with the governing board.

#

# 11. Links with other policies

This exclusions policy is linked to our:

* ***Behaviour policy***
* ***SEND policy and information report***
* ***Equalities Policy***

### Appendix 1: Independent review panel training

The Beckmead Trust must ensure that all members of an independent review panel and clerks have received training within the 2 years prior to the date of the review.

Training must have covered:

* ***The requirements of the primary legislation, regulations and statutory guidance governing exclusions, which would include an understanding of how the principles applicable in an application for judicial review relate to the panel’s decision making***
* ***The need for the panel to observe procedural fairness and the rules of natural justice***
* ***The role of the chair and the clerk of a review panel***
* ***The duties of headteachers, governing boards and the panel under the Equality Act 2010***
* ***The effect of section 6 of the Human Rights Act 1998 (acts of public authorities unlawful if not compatible with certain human rights) and the need to act in a manner compatible with human rights protected by that Act***

### Appendix 2: Example of Exclusion Letter for Parents

[Date]

Re: [Pupil Name]

Dear [Parent Name]

I am writing to inform you of my decision to exclude [Pupil Name] for a fixed period of [state days]. This means that he/she will not be allowed in the academy for this period. The exclusion begins on [Date] and ends on [Date].

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude [Pupil Name] has not been taken lightly. My decision to exclude has been taken following the receipt of evidence that has led me to decide on a balance of probabilities that [Pupil Name] has broken the academy behaviour policy by [insert reason for exclusion].

Unless arrangements are made for [Pupil Name] to attend a place of alternative education from the first day of exclusion, we will set work for during the first five days of this fixed-term exclusion. Please ensure that work set by the academy is completed and returned to us promptly for marking. You have a duty to ensure that your child is not present in a public place during academy teaching hours, unless there is reasonable justification. If this requirement is not followed, you may be prosecuted or receive a penalty notice from the local authority. If so, it will be for you to show reasonable justification or you will be required to pay a penalty fine.

You have the right to make representations about my decision to exclude to the Governing Body of the academy. The details of this right and the timescales set by government guidelines are set out in the attached note. If this exclusion itself or when added to others brings the total of fixed-term exclusion days to over 15 days in one term, governors will need to review the matter. You will be contacted by the school with the detail relating to the governor review meeting.

If you think this exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to appeal, and/or make a claim, to the Special Educational Needs and Disability Tribunal (SENDIST). The address to which appeals should be sent is SENDIST, Mowden Hall, Staindrop Road, Darlington DL3 9DN.

You and [Pupil Name] are requested attend a reintegration interview with me or a member of my staff at the academy on [Time & Date]. If this is not convenient, please contact the academy office as soon as possible to arrange a suitable alternative date and time which must be before your child returns to school from the exclusion.

The purpose of the reintegration interview is to discuss how your child's return to the academy can best be managed. You can request to see a copy of [Pupil Name]’s academic record. Due to confidentiality restrictions, however, you will need to notify me in writing if you wish to be supplied with a copy of [Pupil Name]’s record. There may be a charge for photocopying these documents.

You may wish to contact the school inclusion officers at your Local Authority education service to discuss this exclusion. You may also find it helpful to contact the Coram Children’s Legal Centre at <http://www.childrenslegalcentre.com/>, who aim to provide free legal advice and information to parents on education matters. A copy of the government guidance relating to exclusions can be found on the Department for Education website.

[Pupil Name]’s exclusion expires on [Date] and we expect him/her to be back in the academy on [Date & Time], at the reintegration meeting.

Yours sincerely,

[Headteacher’s Details]