



## **EXCLUSIONS POLICY**

<b>Approved by: Board of Directors</b>
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## 1. Introduction and Rationale

Peterborough Diocese Education Trust's (the Trust) vision is:

**For every child, within our Trust, to experience an excellent education and to realise their God-given potential to flourish.**

In order to flourish, children need an environment that encourages and reinforces good behaviour:

*'start children off on the way they should go and when they are old they will not turn from it.'*

*Proverbs 22:6*

The Trust wants children to live happy and fulfilled lives and to be active learners and active citizens. To enable children to do this, the Trust believes children need to have self-respect and high self-esteem and a sense of individual and collective responsibility. As a Trust, we believe all humans are created in the image of God and therefore have equal rights and responsibilities.

This policy is underpinned by the shared commitment of the Trust, which includes all the academies within it (the academy), to achieve the following important aims:

- to ensure the safety and well-being of all members of the academy community;
- to maintain an appropriate education environment in which all can learn and succeed.

The Trust's Written Statement of Behaviour Principles, and what is expected in terms of behaviour, can be found in the Behaviour Policy. However, it is recognised that, unfortunately, sometimes behaviour can result in the need to consider/implement a fixed period or permanent exclusion and this policy sets out the process we will follow in such circumstances.

The Trust also aims to ensure that, where exclusions take place, the exclusion process is:

- applied fairly and consistently;
- understood by directors, governors, staff, parents/carers and pupils.

## 2. Legislation and Statutory Guidance

All parties involved in exclusions, including the Trust's Directors, the Central Team, Headteachers, parents/carers, governors and Independent Review Panels, must have regard to the statutory guidance (see below). This policy aims to set out rights and responsibilities, around exclusion, with clarity to ensure that all exclusion proceedings are conducted in a fair and just manner.

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

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

- Section 52 of the Education Act 2002, as amended by the Education Act 2011
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012

In addition, the policy is based on:

- Part 7, chapter 2 of the [Education and Inspections Act 2006](#), which looks at parental responsibility for excluded pupils
- Section 579 of the [Education Act 1996](#), which defines 'school day'
- The [Education \(Provision of Full-Time Education for Excluded Pupils\) \(England\) Regulations 2007](#), as amended by [The Education \(Provision of Full-Time Education for Excluded Pupils\) \(England\) \(Amendment\) Regulations 2014](#)

This policy complies with the Trust's funding agreement and articles of association.

### 3. Types of Exclusion

In all cases an exclusion must only be on disciplinary grounds.

There are two types of exclusion: **fixed period** (sometimes called fixed term) and **permanent**.

There is a limit of 45 school days in an academic year for fixed period exclusions.

#### Permanent Exclusion

A decision to permanently exclude will only be taken

- in response to a serious or persistent breach(es) of the academy's behaviour policy, **and**
- if allowing the pupil to remain in the academy would seriously harm the education or welfare of others.

Permanent exclusion is a **last resort** when all alternatives have been considered and all strategies to change behaviour have failed. A headteacher should, as far as possible, avoid permanently excluding any pupil with an EHC Plan or a looked after child.

The law does not allow for extending a fixed period exclusion or 'converting' a fixed period exclusion into a permanent exclusion. In exceptional cases, usually where further evidence has come to light, a further fixed period exclusion may be issued to begin immediately after the first period ends; or a permanent exclusion may be issued to begin immediately after the end of the fixed period.

#### 4. The Decision to Exclude

Only the headteacher, or acting headteacher can exclude a pupil from the academy and this must be on disciplinary grounds. For guidance on incidents that may result in an exclusion – see Appendix 1.

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 if appropriate;
- consider if the pupil has special educational needs (SEN)
- consider if the pupil is looked after.

Additionally, before deciding whether to exclude a pupil permanently, the headteacher will consult with the Trust’s Central Team.

Where a pupil has received multiple exclusions or is approaching the legal limit of 45 school days of fixed period exclusion in an academic year (see Section 5 below), the Headteacher should consider whether exclusion is providing an effective sanction.

Care must be taken to avoid ‘informal’ or ‘unofficial’ exclusions (e.g. sending a child off-site for a ‘cooling down’ period), even with the agreement of a parent/carer.

The Trust 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.”*

#### 5. What to do Following a Decision to Exclude

##### ***Fixed Period Exclusions:***

**Five or fewer school days in any one term** (or 10 or fewer lunch-times or half days):

The headteacher must:

- immediately provide the following information, in writing, to the parents/carers of an excluded pupil:

- the reason(s) for the exclusion;
- the length of the fixed period exclusion;
- that they are legally required to ensure that their child is not present in a public place during school hours without a good reason. If they fail to do this, they may be given a fixed penalty notice or prosecuted;
- about the parents'/carers' right to make representations about the exclusion to the academy's Academy Governance Committee (AGC);
- how any representations should be made.
- report to the governors, usually at the AGC meeting (as notification must be given once per large term of such exclusions), including the reasons and duration of the fixed period;
- notify the LA as there is an obligation to notify of such exclusions once per large term (including the reasons and duration of the fixed period) (For *Northamptonshire academies Exclusions - Schools and education* ([northamptonshire.gov.uk](http://northamptonshire.gov.uk)) explains how to notify);
- record on the academy's Management Information System (MIS)

Where it is not possible, or not appropriate, to arrange alternative provision during the first five school days, the academy should take reasonable steps to set and mark work for the pupil. Work that is provided should be accessible and achievable by the pupil outside the academy.

#### **6 to 15 school days in any one term (singly or cumulatively):**

The headteacher must:

- immediately provide the following information, in writing, to the parents/carers of an excluded pupil:
  - the reason(s) for the exclusion;
  - the length of the fixed period exclusion;
  - that for the first five days they are legally required to ensure that their child is not present in a public place during school hours without a good reason. If they fail to do this, they may be given a fixed penalty notice or prosecuted;
  - about the parents'/carers' right to make representations about the exclusion to the academy's Academy Governance Committee (AGC);
  - how any representations should be made
  - that, if they make representations, they have a right to attend a meeting, to be represented at that meeting (at their own expense) and to bring a friend.
- arrange alternative provision from Day 6 and include the following information when notifying parents/carers:
  - 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 on the first day of exclusion, it may be provided in a subsequent notice, but it must 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'/carers' consent.

- without delay, notify the AGC and the local authority (including the reasons and duration of the fixed period) (For *Northamptonshire academies* [Exclusions - Schools and education \(northamptonshire.gov.uk\)](https://www.northamptonshire.gov.uk) explains how to notify);
- record on the academy's Management Information System (MIS).

Where it is not possible, or not appropriate, to arrange alternative provision during the first five school days, the academy should take reasonable steps to set and mark work for the pupil. Work that is provided should be accessible and achievable by the pupil outside the academy.

### **More than 15 days in total in one term (singly or cumulatively)**

The headteacher must:

- take the actions set out above for '6-15 days';
- inform parents/carers that they have a right to attend a meeting, to be represented at that meeting (at their own expense) and to bring a friend.

### **Permanent Exclusions**

The headteacher must:

- immediately provide the following information, in writing, to the parents/carers of an excluded pupil:
  - the reason(s) for the exclusion;
  - the fact that it is permanent;
  - that for the first 5 school days of an exclusion, or until the start date of any alternative provision where this is earlier, they are legally required to ensure that their child is not present in a public place during school hours without a good reason. If they fail to do this, they may be given a fixed penalty notice or prosecuted;
  - parents/carers have a right to attend a meeting and make representations;
  - parents/carers have a right to be represented at the meeting (at their own expense) and to bring a friend.
- without delay, notify the AGC and the local authority (including the reasons) (For *Northamptonshire academies* [Exclusions - Schools and education \(northamptonshire.gov.uk\)](https://www.northamptonshire.gov.uk) explains how to notify). This must be done immediately to ensure the LA will be able to fulfil its duty to provide alternative educational provision from the sixth day of the exclusion (see below);  
If the pupil lives outside the LA in which the academy is located, immediately inform the pupil's 'home authority' of the exclusion and the reason(s) for it without delay;

- record on the academy's Management Information System (MIS).

For permanent exclusions, the LA is responsible for arranging suitable full-time education to begin no later than the sixth day of the exclusion.

Where it is not possible, or not appropriate, to arrange alternative provision during the first five school days, the academy should take reasonable steps to set and mark work for the pupil. Work that is provided should be accessible and achievable by the pupil outside the academy.

### **Any exclusion that would result in a pupil missing a public examination (SATS)**

The procedures under the section on 'More than 15 days in total in one term (singly or cumulatively)' above should be followed but, in addition, the AGC must, so far as is reasonably practicable, consider the exclusion before the date of the exam/test.

## **6. Review of Decisions to Exclude**

The Trust has delegated the duty to consider reinstatement following certain exclusions to the academy's Academy Governance Committee (AGC). The AGCs duties are as follows:

### **Five or fewer school days in any one term (or 10 or fewer lunch-times or half days):**

- parents'/carers' have the right to make representations about the exclusion to the AGC;
- AGC must consider any representations made by parents but cannot direct reinstatement and is not required to arrange a meeting with parents;
- AGCs should consider whether it would be appropriate to place a note of its findings on the pupil's educational record.

### **6 to 15 school days in any one term:**

If requested to do so by parents/carers, the AGC must consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion.

- The AGC 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 AGC will:

- consider whether the exclusion was lawful, reasonable and procedurally fair and whether the headteacher followed their legal duties;

- decide whether or not a fact is true ‘on the balance of probabilities’, which differs from the criminal standard of ‘beyond reasonable doubt’ (see Section 8 below), as well as any evidence that was presented in relation to the decision to exclude;
- follow the guidance in paragraphs 61 and 63- 71 of the [DfE Statutory guidance](#).

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 AGC will notify, in writing, the headteacher, parents/carers and the LA of its decision, along with reasons for its decision, without delay.

In the absence of any representations from the parents, the AGC is not required to meet and cannot direct the reinstatement of the pupil.

### **More than 15 days in total in one term (singly or cumulatively)**

The AGC must:

- invite the following parties to an AGC meeting and allow them to make representations:
  - parents (and, where requested, a representative or friend);
  - the headteacher;
  - consider the reinstatement of the excluded pupil within 15 school days of receipt of notice of exclusion, whether or not the parent(s)/carer(s) make representations.
- either:
  - decline to reinstate the pupil, or
  - direct the reinstatement of the pupil immediately, or on a particular date.

In reaching a decision, the AGC will:

- consider whether the exclusion was lawful, reasonable and procedurally fair and whether the headteacher followed their legal duties;
- decide whether or not a fact is true ‘on the balance of probabilities’, which differs from the criminal standard of ‘beyond reasonable doubt’ (see Section 8 below) as well as any evidence that was presented in relation to the decision to exclude;
- follow the guidance in paragraphs 61 and 63- 71 of the [DfE Statutory guidance](#).

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 AGC will notify, in writing, the headteacher, parents/carers and the LA of its decision, along with reasons for its decision, without delay.

## Permanent

The AGC must:

- invite the following parties to an AGC meeting and allow them to make representations:
  - parents (and, where requested, a representative or friend);
  - the Headteacher.
- consider the reinstatement of the excluded pupil within 15 school days of receipt of notice of exclusion, whether or not the parent(s)/carer(s) make representations;
- either:
  - decline to reinstate the pupil, or
  - direct the reinstatement of the pupil immediately, or on a particular date.

In reaching a decision, the AGC will:

- consider whether the exclusion was lawful, reasonable and procedurally fair and whether the headteacher followed their legal duties;
- decide whether or not a fact is true 'on the balance of probabilities', which differs from the criminal standard of 'beyond reasonable doubt' (see Section 8 below) as well as any evidence that was presented in relation to the decision to exclude;
- follow the guidance in paragraphs 61 and 63- 71 of the [DfE Statutory guidance](#).

The AGC's decision will also include the following:

- the fact that it is permanent;
- if the decision is not to reinstate, notice of parents'/carers' 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;
  - where and to whom an application (and any written evidence) 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/carers have a right to require the Trust to appoint a SEN expert to attend the review;
  - details of the role of the SEN expert and that there would be no cost to parents/carers for this appointment;
  - that parents/carers must make clear if they wish for an SEN expert to be appointed in any application for a review;
  - that parents/carers may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents/carers 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.

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 AGC will notify, in writing, the headteacher, parents/carers and the LA of its decision, along with reasons for its decision, without delay.

### **If an exclusion means that a pupil will miss a public exam (SAT)**

The AGC will:

- consider the reinstatement of an excluded pupil within 15 school days of receiving the notice of the exclusion but will try to meet before the date of the exam/test;
- either:
  - decline to reinstate the pupil, or
  - direct the reinstatement of the pupil immediately, or on a particular date.

In reaching a decision, the AGC will:

- consider whether the exclusion was lawful, reasonable and procedurally fair and whether the headteacher followed their legal duties;
- decide whether or not a fact is true 'on the balance of probabilities', which differs from the criminal standard of 'beyond reasonable doubt' (see Section 8 below), as well as any evidence that was presented in relation to the decision to exclude;
- follow the guidance in paragraphs 61 and 63- 71 of the [DfE Statutory guidance](#).

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 AGC will notify, in writing, the headteacher, parents/carers and the LA of its decision, along with reasons for its decision, without delay.

## **7. Reinstatement**

Where reinstatement would make no practical difference because for example, the pupil has already returned to the academy following the expiry of a fixed period exclusion or the parents/carers make clear they do not want their child reinstated, the AGC must still consider whether the pupil should be officially reinstated. If it decides against reinstatement of a pupil who has been permanently excluded the parents can request an independent review.

## **8. An Independent Review**

If parents apply for an independent review, the Trust will arrange for an independent panel to review the decision of the AGC not to reinstate a permanently excluded pupil.

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

For details of the process - see Independent Review Panel guidance.

## **9. Principles of Natural Justice**

All factual determinations are based on a balance of probabilities, both by headteachers and at any subsequent review. This means that the headteacher/review panel should accept that something happened if it is more likely that it happened than that it did not happen. In making their decisions to exclude, headteachers must ensure that their decisions are fair, based on the facts of the incident and do not include any elements of discrimination.

The AGCs/members of independent review panels should be impartial, unprejudiced and have taken no previous part in the specific case. They 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.

The headteacher and AGC must comply with their statutory duties in relation to SEN when administering the exclusion process. This includes having regard to the SEND Code of Practice.

## **10. Recording**

Academies are responsible for recording exclusions on the academy's relevant Management Information System (MIS) in a timely manner and keeping careful track of fixed period exclusions that total more than 15 days in a term. Exclusions across the Trust will be monitored through each academy's MIS on Groupcall Analytics.

## **11. Permanent Exclusions - Academy Registers**

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

- 15 school days have passed since the parents/carers were notified of the AGC's decision to not reinstate the pupil and no application has been made for an independent review panel, or
- the parents/carers 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 academy will wait until that review has concluded before removing a pupil's name from the register.

Where alternative provision has been arranged and is attended at a PRU or independent school where the pupil is dual registered, Code D should be used on the attendance register.

Where alternative provision has been arranged and is attended (that does not involve the pupil being registered at any other school), Code B should be used.

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

## **12. Returning from a Fixed Period Exclusion**

Following a fixed period exclusion, a re-integration meeting will be held involving the pupil, parents/carers, a member of senior staff and other staff, where appropriate. A re-integration plan/pastoral support plan will be drawn up.

## **13. Monitoring Arrangements**

This policy will be reviewed by the Trust's Education Committee every 2 years.

## **14. Links with Other Policies**

This Exclusions policy is linked to the Trust's:

- Behaviour policy
- SEN policy and information report
- Equality Information and Objectives

## Appendix 1: Exclusion Considerations

Before deciding to exclude a child, the Headteacher will give careful consideration to:

- the child's **intention and motivation** in the specific incident or incidents leading to the possibility of exclusion
- if the child has additional needs, has an EHCP or is looked after.

The following incidents may result in immediate exclusion, though this would not be an automatic response. Such exclusion would usually be for a fixed period, but in the most extreme circumstances permanent exclusion may be the appropriate response:

- Serious, actual or threatened intentional physical violence against an adult or child
- Serious, actual or threatened intentional intimidating behaviour against an adult or child
- Extreme verbal aggression deliberately directed at an adult or child
- Possession of alcohol, drugs or cigarettes
- Possession of any prohibited items such as:
  - Knives or weapons
  - Alcohol
  - Illegal drugs
  - Stolen items
  - Tobacco and cigarette papers
  - Fireworks
  - Pornographic images
- Having any article a staff member reasonably suspects has been, or is likely to be, used to commit an offence, or to cause personal injury to, or damage to the property of, any person (including the public)
- Sexual assault, which is any unwanted sexual behaviour that causes humiliation, pain, fear or intimidation
- Sexting
- Theft
- Vandalism
- Arson

Where other strategies for improving the child's behaviour have failed and the behaviour is repeated or sustained, the following may also be grounds for exclusion:

- Persistent non-compliant behaviour (to adult requests)
- High level disruption in lessons and at unstructured times
- Repeated breach of the academy rules
- Swearing

- Any form of bullying
- Racist, sexist, homophobic or discriminatory behaviour
- Verbal abuse of / spitting at an adult or child
- Damage to or destruction of property
- Unacceptable behaviour which has previously been reported and for which academy sanctions and other interventions have not been successful in modifying the child's behaviour.

Exclusions at lunchtime may be used in response to incidents during the lunch break resulting in a fixed period exclusion for lunchtimes e.g. intentional violence against a lunchtime supervisor or extreme verbal abuse directed deliberately towards a lunchtime supervisor.