



West Norfolk
Academies Trust

School Exclusion

Reviewed by: Trustees

Approved: February 2022

Next review date: March 2023

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Exclusion criteria

Sometimes a pupil's behaviour will lead to a period of exclusion from school. West Norfolk Academies Trust conforms to the Department of Education Guidance entitled 'Exclusion from maintained schools, academies and pupil referral units in England'. A copy of this document can be downloaded from the Department of Educational website:-

<https://www.gov.uk/government/publications/school-exclusion>

Our Exclusion Policy should be read in context with the individual school's behaviour policy.

What is an Exclusion?

Exclusion is a disciplinary sanction, and means that a pupil is not allowed on the school premises for the duration of the Exclusion.

A pupil may be excluded for one or more fixed periods up to a maximum of 45 school days in a single academic year, or permanently. A pupil can also be excluded for lunchtimes.

There are two types of Exclusion:

Fixed-Term Exclusion

Permanent Exclusion

Fixed-Term Exclusion

This means that a pupil is not allowed in school for a specified number of days because they have breached the school's behaviour policy. Pupils who misbehave at lunchtime may be excluded for lunchtime only. Each lunchtime exclusion counts as half a day.

Whenever a Headteacher excludes a pupil of compulsory age they must, without delay, notify parents/carers of the period of the exclusion and the reasons for it. In addition the Head must also notify the Local Governing Body and Local Authority.

The pupil is not allowed on the school site for a definite period; however this does not have to be a continuous period. This might apply if a pupil attends college or other off-site provision for part of the week.

When a pupil has a fixed term exclusion, the school must set and mark work for the first five days of the exclusion and from the sixth day must provide a full-time education provision.

- During the exclusion, the pupil must not be in a public place during school hours and the parents/carers are responsible for the whereabouts of the pupil.
- On returning to school, there will be a re-integration meeting, in which all those concerned can discuss the best way forward for the pupil.

Exclusion for more than five days

If any exclusion is for more than five school days, parents/carers can request a meeting of the school to review the exclusion. The Governors must agree to this request.

Exclusion for more than 15 school days

When exclusions total over 15 school days in any one term, the Governors must arrange a meeting to consider the exclusion within 15 school days, to which the parents/carers must be invited.

Permanent Exclusion

A pupil is permanently excluded for a serious breach or persistent breaches of the school's behaviour policy and if their being in school would harm the education or welfare of themselves or of others. Permanent exclusion should only be used as a last resort and it means that the pupil would no longer be allowed to attend the school.

- For the first five days, the parents/carers are responsible for the pupil's whereabouts and he/she must not be in a public place during school hours.
- For the first five days, the school should set work and provide resources for the pupil.
- The Local Authority must arrange suitable full time education for the pupil to begin no later than the sixth day of the exclusion.
- Where a pupil has an EHCP, the Local Authority must ensure that an appropriate full-time placement is identified in consultation with the parents/carers, who retain their rights to express a preference for a school that they wish their pupil to attend, or make representations for a placement in any other school.
- The school's Local Governing Body will meet to decide whether or not to reinstate a pupil and if the Headteacher decision to exclude was justified based on the evidence.
- Parents/carers and the pupil will have an opportunity to present their point of view, regarding the exclusion. At that meeting the members of the Local Governing Body will either uphold the exclusion, or reinstate the pupil.

If the permanent exclusion is upheld by the members of the Local Governing Body, the parents/carers have the right to appeal to an Independent Review Panel.

When establishing the facts in relation to an exclusion decision, the Headteacher must apply the civil standard of proof, i.e. 'on the balance of probabilities' it is more likely than not that a fact is true, rather than the criminal standard of 'beyond reasonable doubt'.

Exclusion of a pupil who has Special Educational Needs

There are certain factors that should be taken into consideration for pupil's who display disruptive behaviour that is as a result of their Special Educational Need (SEND).

Schools should engage proactively with parents/carers in supporting the behaviour of pupils with additional needs. Early intervention to address underlying causes of disruptive behaviour should include

- An assessment of whether appropriate provision is in place to support any SEND or disability that a pupil may have.
- The Headteacher should also consider the use of a multi-agency assessment for pupils who demonstrate persistent disruptive behaviour.
- The Headteacher and Local Governing Body must take account of their statutory duties in relation to SEND when administering the exclusion process. This includes having regard to the SEND Code of Practice.

Where a school has concerns about the behaviour, or risk of exclusion, of a pupil with additional needs, a pupil with an Educational Health Care Plan (EHCP) or looked after pupil, it should in partnership with others (including the Local Authority as necessary) consider what additional support or alternative placement may be required.

The decision to exclude a pupil must be lawful, reasonable and fair. Schools have a statutory duty under the Equality Act 2010 not to discriminate against pupils on the basis of protected characteristics, such as disability.

The Local Governing Body's Role

The Local Governing Body has a duty to consider parents/carers' representations about an exclusion.

The Local Governing Body must consider the reinstatement of an excluded pupil within 15 school days of receiving notice of the exclusion if:

- The exclusion is permanent;
- it is a fixed period exclusion which would bring the pupil's total number of school days of exclusion to more than 15 in a term; or
- it would result in a pupil missing a public examination or national curriculum test.

If a pupil would be excluded from school for more than five school days, but not more than 15, in a single term, and requested to do so by the parents/carers, the Local Governing Body must meet within 50 school days after they receive the parent's request.

In the case of a fixed period exclusion which does not bring the pupil's total number of days of exclusion to more than five in a term, the governing body must consider any representations made by parents/carers, but **it cannot direct reinstatement as it does not have the power to overturn the head teacher's decision** and is not required to arrange a meeting with parents/carers. In this case they should consider whether it would be appropriate to place a note of their findings on the pupil's educational record.

When establishing the facts in relation to an exclusion decision the governing body must apply the civil standard of proof; i.e. 'on the balance of probabilities' it is more likely than not that a fact is true rather than the criminal standard of 'beyond reasonable doubt'.

Excluded pupils are encouraged to participate at all stages of the exclusion process, taking into account their age and understanding.

In the light of their consideration, the Local Governing Body may (where applicable):

- uphold an exclusion; or
- direct reinstatement of the pupil immediately or on a particular date.

Where reinstatement is not practical because for example, the pupil has already returned to school following the expiry of a fixed period exclusion or the parents/carers make clear they do not want their pupil reinstated, the Local Governing Body must, in any event, consider whether the Head's decision to exclude the pupil was justified based on the evidence.

In reaching a decision on whether or not to reinstate a pupil, the Local Governing Body should consider whether the decision to exclude the pupil was lawful, reasonable and procedurally fair, taking account of the Headteacher's legal duties.

Independent Review Panel

If applied for by parents/carers within the legal time frame, an independent review panel hearing will be arranged to review the decision of a governing body not to reinstate a permanently excluded pupil.

The legal time frame for an application is:

- within 15 school days of notice being given to the parents/carers by the Local Governing Body of their decision to uphold a permanent exclusion or
- where an application has not been made within this time frame, within 15 school days of the final determination of a claim of discrimination under the Equality Act 2010 in relation to the exclusion.

If requested by parents/carers in their application for an independent review panel, the Academy Trust must appoint a SEND expert to attend the panel and cover the associated costs of this appointment. The SEND expert's role is like that of an expert witness, providing impartial advice to the panel on how special educational needs might be relevant to the exclusion, for example, whether the school acted reasonably in relation to its legal duties when excluding the pupil. Parents/carers have a right to request the attendance of a SEND expert at a review, regardless of whether the school recognises that their pupil has SEND.

The role of the panel is to review the governing body's decision **not to reinstate a permanently excluded pupil**. In reviewing the decision the panel must consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and people working at the school.

The panel must apply the civil standard of proof, (i.e. 'on the balance of probabilities' it is more likely than not that a fact is true) rather than the criminal standard of 'beyond reasonable doubt'.

Following its review the panel can decide to:

- uphold the exclusion decision;
- recommend that the governing body reconsiders their decision, or
- quash the decision and direct that the governing body considers the exclusion again.

An independent review panel does not have the power to direct a Local Governing Body to re-instate an excluded pupil. However, where a panel decides that a Local Governing Body's decision is flawed when considered in the light of the principles applicable on an application for judicial review, it can direct a Local Governing Body to reconsider its decision.

If your child is still excluded you can ask the [Education Funding Agency](#) to look at whether your case was handled properly. They can't overturn the exclusion.