

Hill View Academy Exclusion Policy



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Approved By	
LGB	
SLT Member Responsible	Headteacher
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Introduction

This guidance has been written in line with the current statutory guidance available from the Department for Education and takes into consideration any Serious Case Review recommendations to ensure that there are robust arrangements in place for children at the point of exclusion, either Fixed-Term or Permanent. It also reflects the right of the headteacher to exclude a pupil while maintaining their legal duty of care when sending a pupil home following exclusion.

Aims

- To ensure that the exclusion process has been carefully considered and is applied fairly and consistently
- To ensure that consideration is given to children who present with additional needs, such as Special Educational Needs (SEN) or Children Looked After (CLA) before a decision is made to exclude
- To ensure that the exclusion process is clear and understood by all stakeholders and that we engage proactively with parents, carers, and the local authority to avoid exclusion wherever possible
- To ensure that pupils remain safe at all times
- To ensure that pupils do not become lost within the education system

Legislation and Statutory Guidance

This policy is based on statutory guidance from the Department for Education: Exclusion from maintained schools, academies and pupil referral units in England which can be found at

<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, as amended by the Education Act 2011
- The School Discipline (Pupil 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 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 our funding agreement and articles of association.

The Decision to Exclude

Only the headteacher (or acting headteacher) can exclude a pupil from school and this decision will only be made after very careful consideration of the circumstances.

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 if the pupil has special educational needs (SEN) or whether there are other mitigating circumstances that need to be considered

Any exclusion, particularly a permanent exclusion, will be taken as a last resort and we are committed to following all statutory exclusions procedures to ensure that every child receives an education in a safe and caring environment.

Roles and Responsibilities

The Headteacher

Only the Headteacher (or acting Headteacher), having considered all the facts of the incident, can take the decision to exclude a child. The decision to exclude for any period must be lawful, reasonable, fair and must be on disciplinary grounds. 'Informal' or 'Unofficial' exclusions are unlawful regardless of whether they occur with the agreement of parents/carers.

There are several different forms of exclusion:

- Internal Exclusion - When it is felt appropriate, the headteacher may make use of an internal exclusion. The child will be set the same work as the class but moved into another room. Part of the internal exclusion will be for the pupil to think about the behaviour, why it was unacceptable & how the situation could have been handled differently. An internal exclusion may be for part of a day or for up to a week.
- Fixed-term Exclusion - A fixed-term exclusion will be applied where there has been persistent disruptive or aggressive behaviour either towards another child or a member of staff. This would include any recurring incidents of bullying.
- Permanent Exclusion - Permanent exclusion is a last resort and will only be used where there has been a serious or persistent breach of the school behaviour policy. Part of the decision to permanently exclude would be that if the child was to remain in school this would cause serious harm to the education or welfare of others.
- Lunchtime Exclusion - Lunchtime exclusions will follow the same exclusion process and count as a half day exclusion

The Headteacher may also consider:

- Managed Moves - A managed move may be considered as an alternative to permanent exclusion. All managed moves will be agreed following Kirklees' protocol for managed moves and through the BACs process.
- Pupil Referral Units - In extreme circumstances, a place may be sought at the Pupil Referral Unit (PRU). It is the school's responsibility to ensure that the alternative provision provides the adequate number of hours and to liaise with the provision while the child is attending.

The practice of 'off-rolling'/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 is unlawful and is not part of our practice.

Informing Parents

Parents/carers should be contacted and asked to come into school so that an explanation as to why the child is being excluded can be given. Children should be involved in this exclusion process so that they understand what behaviour/actions are unacceptable and why (relevant to their age and understanding)

No child will be allowed to leave the school site without their parent/carer or appropriate alternative

The Headteacher will put in writing:

- The reason for the exclusion
- The length of the fixed term exclusion or the fact that the exclusion is permanent
- Information about parents' right to make representations about the exclusion to the local 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
- Parents will also be notified 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. School will set and mark work provided for the first five days of a period of exclusion, unless or until alternative provision is provided. Alternative provision will be in place from the sixth day.

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.

If a Child is a Child Looked After (CLA) the Virtual School Head will be kept informed throughout the exclusion process, and likewise if the child is either CLA or on a Child Protection Plan then the Lead Social Worker (SW) will be kept informed.

The headteacher will immediately notify the governing board 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 and LA once a term.

The Local Governing Board

Responsibilities regarding exclusions is delegated to an exclusion panel of the Local Governing Board consisting of a minimum of 3 people.

The exclusion panel has a duty to consider the reinstatement of an excluded pupil (see section 6).

Within 14 days of receipt of a request, the governing board will provide the secretary of state with information about any exclusions in the last 12 months.

For a fixed-period exclusion of more than 5 school days, the governing will arrange suitable full-time education for the pupil. This provision will begin no later than the sixth day of the exclusion.

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.

Considering the Reinstatement of a Pupil

The Exclusion panel of the Local Governing Board 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 exclusion panel of the Local Governing Body 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 exclusion panel of the Local Governing Body will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the exclusion panel of the Local Governing Body will consider the exclusion and decide whether or not to reinstate the pupil.

The exclusion panel of the Local Governing Board 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 exclusion panel of the Local Governing Body 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 exclusion panel of the Local Governing Body 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 exclusion panel of the Local Governing exclusion panel of the Local Governing Body'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 academy 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

An Independent Review

Applications for an independent review must be made within 15 school days of notice being given to the parents by exclusion panel of the Local Governing Body of its decision to not reinstate a pupil.

A panel of 3 or 5 members will be constituted with representatives from each of the categories below. Where a 5-member panel is constituted, 2 members will come from the school governor's category and 2 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 5 years, provided they have not been teachers or headteachers during this time
- Headteachers or individuals who have been a headteacher within the last 5 years

A person may not serve as a member of a review panel if they:

- Are a member of the academy trust, or governing board of the excluding school
- Are the headteacher of the excluding school, or have held this position in the last 5 years
- Are an employee of the academy trust, or the governing board, 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 academy trust, school, governing board, parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality

A clerk will be appointed to the panel.

The independent panel will decide one of the following:

- Uphold the governing board's decision
- Recommend that the governing board reconsiders reinstatement
- Quash the governing board'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.

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.

Returning from a Fixed-term Exclusion

Following a fixed-term exclusion, a re-integration 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
- Internal provision at lunchtime/playtime

Monitoring Arrangements

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