



L.E.A.D. Academy Trust

Lead • Empower • Achieve • Drive

# Exclusion Policy and Procedure

Witham St Hughs Academy

Approved September 2018

## Contents

1. Aims.....	3
2. Legislation and statutory guidance .....	3
3. The decision to exclude.....	3
4. Definition .....	4
5. Roles and responsibilities.....	4
6. Considering the reinstatement of a pupil.....	6
7. An independent review.....	7
8. School registers.....	8
9. Returning from a fixed-term exclusion .....	9
10. Monitoring arrangements.....	9
11. Links with other policies .....	9

## 1. Aims

The L.E.A.D. Academy Trust requires this policy to be implemented by all its member academies. It aims to ensure that:

- The exclusions process is applied fairly and consistently
- 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)

## 2. 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 \(PRUs\) in England](#).

Cross references to paragraphs of this guidance are made throughout this policy.

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 the Trust 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.

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.

(This may include behaviour outside of school)

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

- ensure appropriate investigations have been carried out
- 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 where practicable
- consider if the pupil has special educational needs (SEN)

- consider any ‘contributing factors’ (See point 18 of Statutory Guidance)
- check that appropriate support had been provided.

## 4. Definition

The Department for Education regulations allow the Headteacher (or a member of the Senior Leadership Team acting as such) to exclude a pupil for one or more fixed periods not exceeding 45 school days in any one academic year. Most exclusions are of a fixed-term nature and are of short duration. For the purposes of exclusions, 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.

A fixed-term exclusion does not have to be for a continuous period. In exceptional cases, usually where further evidence has come to light, a further fixed period exclusion may be issued immediately after the first period of exclusion: or a permanent exclusion may be issued to begin after the end of the fixed period. It is unlawful to ‘convert and fixed period exclusion into a permanent exclusion. (See para 3.3)

Pupils whose behaviour at **lunchtime** is disruptive may be excluded from the academy premises for the duration of the lunchtime period. In such cases the legal requirements in relation to exclusion, such as the Headteacher’s duty to notify parents, still apply.

## 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 and how these should be made about the exclusion to the governing board
- how the pupil may be involved in this; and
- 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. For the fixed-term exclusion the headteacher is responsible for providing suitable work that the pupil can practically complete at home and for this work to be marked if required.

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 board and local authority**

The headteacher will immediately notify the Academy Advisory Board, the Director of Schools and the local authority (LA) of:

- a permanent exclusion, including when a fixed-period exclusion is followed by a permanent exclusion being issued
- 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 Academy Advisory Board once a term and the Director of Schools at the time of the fixed term exclusion.

## **5.2 The Academy Advisory Board (AAB) and Exclusion Panel**

Responsibilities regarding exclusions is delegated to an Exclusion Panel consisting of at least 3 governors taken from the nominated governors across the L.E.A.D Academies.

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.

## **5.3 Sixth Day Provision**

Where a child receives a cumulative period of exclusion of more than 5 days then education must be arranged no later than the sixth day. Every attempt to provide local arrangements should be explored to ensure a pupil receives full time education as soon as is practicable if it is likely that a longer fixed term exclusion is likely. (For example, during a period of investigation where more information is being gathered).

*For secondary schools only:*

Provision does not have to be arranged for pupils in the final year of compulsory education who do not have any further public examinations to sit. (See para.50)

Where it is not possible or not appropriate to arrange alternative provision during the first five days the academy should take reasonable steps to set and mark work. The work should be accessible and achievable.

#### **5.4 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.

### **6. Considering the reinstatement of a pupil**

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

Parents (or where requested a representative or friend) must be invited to the meeting of the governing board panel and allowed to make representations.

The Exclusion Panel must make reasonable endeavours to arrange a meeting that is convenient for all parties and compliant with the relevant statutory time limits. The decision will not be invalid simply on the grounds of not meeting time limits. (See para 59)

For a fixed-period exclusion not exceeding five days in a term the governing board must still consider arrangements for allowing parents/carers to make representations. The governing board cannot direct reinstatement and is not required to arrange a meeting with parents.

The Exclusion Panel can either:

- decline to reinstate the pupil, or
- direct the reinstatement of the pupil immediately, or on a particular date

The Exclusion Panel should:

- not discuss the exclusion with any party outside the meeting
- ask for any written evidence in advance of the meeting including witness statements and other relevant information relating to a pupil's SEN
- circulate the written evidence to all parties at least five school days advance (where possible)
- allow the parent and the pupil to be accompanied by a friend or representative
- provide reasonable adjustments if a parent or the pupil has a disability which may impact upon their ability to attend the meeting or make representations
- allow the pupil to attend the meeting and speak on their own behalf.

In reaching a decision, the Exclusion Panel 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 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's decision will also include the following:

- The fact that the exclusion 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

## 7. An independent review

If parents apply for an independent review, the academy trust will arrange for an independent panel to review the decision of the governing board 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 by the exclusion panel 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 governors 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/director 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
- Have not had the required training within the last 2 years (see appendix 1 for what training must cover)

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.

## 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 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
- Putting a pupil 'on report'
- Internal isolation
- Daily reporting/communication book to parents

## 10. Monitoring arrangements

The Director of Schools monitors the number of exclusions every term and reports back to the Academy Advisory Board and the Trust through the School Performance QA Review Reports.

This policy will be reviewed by the MAT Director every 3 years or earlier in response to DfE guidance. At every review, the policy will be shared with the Academy Headteachers, the AABs and the Trust.

## 11. Links with other policies

This exclusions policy is linked to academy

- Behaviour policies
- SEN policies and information report.