



# Rye College Policy

---

Policy Title:	Suspension and Exclusion
Leadership Responsibility:	Deputy Headteacher
Review Body:	Headteacher
Date:	March 2023
Review:	March 2024

## Statement of Intent

Rye College (the Academy) is an inclusive school, committed in policy and practice to recognition of the equal value of each member of the community and to equality of opportunity for all. The Academy recognises the importance of good behaviour and discipline for promoting a high-quality education.

Amongst other disciplinary sanctions, the Academy recognises that exclusion of students may be necessary where there has been a serious breach, or consistent breaches, of the Academy's Behaviour Management Policy. Excluding a student may also be required in instances where allowing the student to remain in school would be damaging to the education and welfare of themselves or others; in all cases, excluding students should only be used as a means of last resort. Exclusions are used sparingly and only as part of the overall Behaviour Management Policy. However, exclusions may be used when other strategies and sanctions have not been effective.

This policy defines the legal responsibilities of the Headteacher, Aquinas Advisory Council and Local Authority when responding to student exclusions, to ensure that they are dealt with both fairly and lawfully, and in line with Department for Education (DfE) statutory guidance.

This policy also aims to secure a student's right to an education despite having been excluded, by ensuring that appropriate arrangements are in place.

## Legal framework

This policy has due regard to all relevant statutory legislation including, but not limited to, the following:

- The Education Act 2002.
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012.
- The Education and Inspections Act 2006.
- The Education Act 1996.
- The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007.
- The European Convention on Human Rights (ECHR).
- The Equality Act 2010.
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012.
- The European Convention on Human Rights (ECHR).



This policy also has due regard to statutory and non-statutory guidance, including, but not limited to, the following:

- DfE (2022) 'Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement'.
- DfE (2022) 'Behaviour in Schools'.
- DfE (2015) 'Special educational needs and disability code of practice: 0 to 25 years'.
- DfE (2018) 'Mental health and behaviour in schools'.

This policy operates in conjunction with the following Academy policies:

- Behaviour Management Policy.
- Anti-Bullying Policy.
- Equalities Policy.
- Special Educational Needs and Disabilities (SEND) Policy.
- Safeguarding and Child Protection Policy.

## Roles and Responsibilities

The Local Authority (LA) is responsible for:

- Having due regard to the relevant statutory guidance when carrying out its duties in relation to the education of Looked After Children.
- Arranging suitable full-time education for any student of compulsory school age excluded permanently, in coordination with the Academy.
- Reviewing and reassessing students' needs in consultation with their parents where they have an EHC plan and are excluded permanently, with a view to identifying a new placement.
- Arranging for an independent review panel hearing to review the decision of the Aquinas Advisory Council not to reinstate a permanently excluded student where required.
- Arranging the hearing without delay at a time, date and venue convenient to all parties.
- Ensuring the independent review panel consists of three or five members as appropriate, which represents the required categories.
- Appointing a clerk to provide advice to the panel and parties on procedure, law and statutory guidance on exclusions.
- Ensuring all panel members and the clerk have received training within the two years prior to the date of the review.
- If requested by parents, appointing a SEND expert to attend the panel and covering the associated costs of this appointment.

The Aquinas Church of England Education Trust (the Trust) is responsible for the following:

- Providing information to the Secretary of State and LA about any exclusions within the last 12 months.
- Arranging suitable full-time education for any student of compulsory school age excluded for a fixed period.



- Considering parents' representations about exclusions within 15 school days of receiving notice if the appropriate requirements are met.
- Where an exclusion would result in a student missing a public examination or test, considering the exclusion before this date.
- Considering whether it would be appropriate for a student to be permitted onto the school premises to sit the public examination or test.
- Arranging the representation meeting at a time and date convenient to all parties, but in compliance with the statutory time limits.
- Adhering to its responsibilities to consider the reinstatement of students.
- Considering the interests and circumstances of the excluded student, including the circumstances in which they were excluded, and have due regard to the interests of others at the Academy.
- Using the civil standard of proof (based on the 'balance of probabilities', it is more than likely that the fact is true) when establishing the facts relating to an exclusion.
- Ensuring clear minutes are taken of the representation meeting.
- Noting the outcome of the representation meeting on the student's education record, along with copies of relevant papers for future reference.
- Notifying the student's parents, the headteacher and LA of its decision and the reasons for it, without delay.
- Where appropriate, informing parents of where to apply for an independent review panel;
- Informing parents of relevant sources of information.
- Ensuring a student's name is removed from the school admissions register, where appropriate.
- Reconvening within 10 school days to reconsider reinstatement of a student where directed to do so by the exclusions review panel.

The Headteacher is responsible for:

- Implementing good levels of discipline to ensure all students can benefit from the opportunities provided by education and to minimise potential exclusions.
- Applying the civil standard of proof when establishing the facts in relation to an exclusion.
- Complying with their statutory duties in relation to students with SEND when administering the exclusion process, as outlined in the Special Educational Needs and Disabilities (SEND) policy.
- Considering any contributing factors that are identified after an incident of poor behaviour has occurred, e.g. if a student has suffered bereavement, bullying or has a mental health issue.
- Considering the use of a multi-agency assessment for a student who demonstrates persistent disruptive behaviour.
- Reviewing the effectiveness of exclusions as a sanction, e.g. if a student has received multiple exclusions or is approaching the legal limit for exclusions in an academic year.
- Considering what extra support may be needed to identify and address the needs of individual students, particularly those with SEND, eligible for FSM, LAC and those from certain ethnic groups.



- Engaging effectively with parents in supporting the behaviour of students with additional needs.
- Determining whether a student will be excluded on disciplinary grounds.
- Withdrawing any exclusions that have not been reviewed by the Aquinas Advisory Council, where appropriate.
- Ensuring any decision to exclude is lawful, rational, reasonable, fair and proportionate.
- Complying with the requirements of the Equality Act 2010 when deciding whether to exclude a student.
- Ensuring they have considered their legal duty of care when sending a student home following an exclusion.
- Making the decision to exclude based on the evidence available at the time, regardless of any police investigation and/or criminal proceedings.
- Notifying a student's parents without delay where the decision is taken to exclude the student, including the days on which the parents must ensure the student is not present in a public place at any time during school hours, as well as any other necessary information statutorily required.
- Ensuring that all information provided to parents is clear and easily understood.
- Notifying the Aquinas Advisory Council and LA of their decision to exclude a student where appropriate, as well as the student's home authority if required.
- Notifying the student's social worker, if they have one, and the Virtual School Head (VSH), if they are a looked-after child.
- Social workers and/or the VSH will also be informed when a meeting of the Aquinas Advisory Council is taking place and will be invited to attend the meeting should they wish to do so.
- Notifying the Aquinas Advisory Council once per term of any exclusions not already notified.
- Organising suitable work for excluded students where alternative provision cannot be arranged.

The Exclusions Officer is responsible for:

- Making reasonable efforts to inform the appropriate individuals that they are entitled to:
  - Make written representations to the panel.
  - Attend the hearing and make oral representations to the panel.
  - Be represented.
- Making reasonable efforts to circulate copies of relevant papers at least five school days before the review to all parties.
- Giving all parties details of those attending and their role, once the position is clear.
- Attending the Statutory Review Panel meeting and ensuring that minutes are produced in accordance with instructions from the panel.

## Preventing Suspension/Exclusion

Where unacceptable behaviour occurs at any time during the school day, the following alternative strategies to avoid suspension/exclusion may be used but not necessarily in the order written below:

- Warnings or verbal reprimands.



- Discussion with a colleague after the lesson to re-establish acceptable learning behaviours or during breaks/after school.
- Relocation: removal of a student from a lesson for behaviour that disrupts the teaching and learning of others. This results in a 30-minute after-school subject detention the next day. Failure to attend leads to a one-hour, CLT detention the next day.
- Restorative Justice (where appropriate).
- Solo Study for a period of time.
- Student report to monitor various aspects of behaviour and engagement across all subjects.
- Communication with families.
- Family meetings and interventions.
- Referral to external agencies (where appropriate).
- Community service e.g. litter picking etc.
- School-to-school placement(s).
- Use of College Central placement.
- Use of part-time timetables - used only in specific circumstances and must be agreed by the parents and Headteacher.

All colleagues receive training in the Academy's approaches to managing behaviour. Student discipline is also regularly an item at meetings that involve teachers and support staff. Where there are particular issues, guidance is given to a teacher and support staff by the leadership team or Inclusion Team.

Students with special educational needs, especially those with personal support plans that include objectives concerning behaviour, will often need a programme of additional strategies to meet their needs. These children may have agreed additional procedures and strategies in place for them. The Deputy Headteacher is responsible for co-ordinating matters related to behaviour. If any colleague has any concerns in this area, they should raise it with the Headteacher.

The Academy works closely with the local authority and other secondary schools to undertake courses of action which would be of benefit both to the student and the schools concerned. However, the threat of a permanent exclusion will never be used as the means to coerce parents to move their child to another school.

The Academy endeavours to avoid both fixed period suspensions and permanent exclusions. However, if the strategies implemented by the school have failed, then there will be a final interview with parents or carers where the possibility of permanent exclusion will be discussed. This will be followed by a final written warning stating that the student is 'at risk' of permanent exclusion.

Where the Headteacher has arranged alternative provision, for example, a school-to-school placement at another school or dual roll place at College Central, they will inform the parents of the following:

- The start and end date for the provision of full-time education.
- The address at which the provision will take place.
- Any information necessary for the student to identify the person they should report to on the starting date.



## Parent information

Parents are advised that students, who are suspended/excluded, are not allowed on the school premises and that daytime supervision is their responsibility.

Parents are also legally required to ensure that their child is not present in a public place during school hours without justification and may receive a penalty fine, if they fail to do so.

The school will provide work for the student for the first five days of any suspension/exclusion via the learning platforms used by the school e.g. ClassCharts.

In the case of a permanent exclusion, on the sixth day, the local authority becomes responsible for providing suitable full-time education.

## The Headteacher's power to exclude

Any decision made to suspend/exclude a student will be lawful, proportionate and fair, with respect to legislation relating directly to exclusions and the Academy's wider legal duties, including the ECHR.

At all times, the Headteacher will consider their legal duties under the Equality Act 2010 and the 'Special educational needs and disability code of practice: 0 to 25 years, ensuring that they do not discriminate on any grounds, e.g. race, sex, disability, and will not increase the severity of a student's exclusion on these grounds.

The Headteacher may cancel any suspension or exclusion that has already begun; however, this power will only be used if the suspension or exclusion has not already been reviewed by the Aquinas Advisory Council. Where a suspension or exclusion is cancelled, the Headteacher will notify the student's parents, the LA and, where relevant, the Virtual School Head (VSH) and the student's social worker. The Headteacher will offer the student's parents the opportunity to meet with the Headteacher to discuss the circumstances that led to the cancellation of the suspension or exclusion, and the student will be allowed back into school.

## General information:

- Only the Headteacher has the power to suspend/exclude a student from the school and is able to decide whether this is on a fixed-period or permanent basis.
- Where the Headteacher is temporarily off-site or absent from school, they must be consulted and have access to relevant evidence and information prior to the final decision being made.
- In the case of the Headteacher being absent for an extended period of time, the formally appointed Acting Headteacher will have the power to exclude in place of the Headteacher.
- All suspensions/exclusions will only be issued on disciplinary grounds.
- All suspensions/exclusions are formally recorded on the Academy's student information system and reported to the Local Authority.
- In all cases, the Headteacher will decide which suspension/exclusion period a student will be subject to, depending on the circumstances.
- The Headteacher may withdraw any suspension/exclusion that has not already been reviewed by the Aquinas Advisory Council.



- The Headteacher will not issue any 'informal' or 'unofficial' exclusions, e.g. sending a student home to 'cool-off', regardless of whether the parents have agreed to this.
- The Headteacher will not use the threat of exclusion as a means of instructing parents to remove their child from the premises.
- The Headteacher is able to exclude students from the premises where their behaviour is disruptive during lunchtime. All lunchtime exclusions will be counted as half of a school day.
- The Headteacher is also able to consider a student's disruptive behaviour outside of the school premises as grounds for suspension/exclusion, in accordance with the Academy's Behaviour Management Policy.
- When a student has been suspended or excluded, the Headteacher will, without delay, notify the student's social worker, if they have one, and the VSH, if they are a looked-after child. This notification will include the period of any suspension and the reasons for suspension or permanent exclusion.
- Social workers and/or the VSH will also be informed when a meeting of the Aquinas Advisory Council is taking place and will be invited to attend the meeting should they wish to do so.

### What are the reasons for suspension/exclusion?

**Note:** This is not an exhaustive list and there may be other situations where the Headteacher makes the judgement that suspension is an appropriate sanction.

The Academy will only suspend/exclude a student where it is absolutely necessary, and where all other possible disciplinary sanctions, as detailed in the school's Behaviour Management Policy, have failed to be successful.

Incidents for which fixed period suspensions or permanent exclusion will be considered, but are not limited to, include:

- Persistent disruption of the learning environment.
- Persistent defiance.
- Bullying.
- Verbal abuse of professionals or other adults.
- Verbal abuse of other students.
- Serious, actual or threatened violence against a professional or other adult.
- Serious, actual or threatened violence against another student.
- Physical abuse or attack of professionals or other adults.
- Physical abuse or attack of other students.
- Verbal / discriminatory abuse, derogatory remarks or inappropriate use of language related to a protected characteristic e.g. racist, homophobic, biphobic, transphobic or ableist abuse.
- Deliberate exclusion on the grounds of a protected characteristic.
- Harassment, slurs, or similar treatment based on a difference or perceived difference.
- Indecent behaviour.
- Damage to property or arson.
- Theft.
- Misuse of controlled or illegal drugs.
- Misuse of other substances.



- Supply or possession of controlled or illegal drugs and other substances.
- Supply or possession of paraphernalia related to the above.
- Carrying an offensive weapon.
- Use, or threat of use, of an offensive weapon or prohibited item.
- Serious or sustained bullying (see Anti-Bullying Policy).
- Acting in a way likely to endanger the health and safety of others.
- Unacceptable behaviour over time for which previous sanctions or other initiatives have not been successful in modifying the behaviour.
- Any other behaviour which may bring the name of the school into disrepute.
- Sexual abuse, assault or harassment.
- Dangerous behaviour – behaviour that directly or indirectly presents an imminent danger of physical harm to self or others.

The Academy may impose exclusion on a student for non-criminal misbehaviour occurring outside school where it is reasonable to do so including:

- Misbehaviour which occurs when the student is taking part in a school organised or related activity, or travelling to or from school, or wearing the school uniform, or can be identified in some other way as a student of the school; or,
- Misbehaviour at any time that could have repercussions for the orderly running of the Academy, or pose a threat to another student or member of the public, or could adversely affect the reputation of the Academy.

The Academy may also sanction students for criminal behaviour occurring outside school even where the police have decided to take no formal action against the student.

### **What is taken into consideration when deciding to suspend/exclude?**

In all cases, the incident leading to a possible suspension is investigated, statements for all parties involved are collated and provided to the Headteacher with an overview and rationale for the suspension. This includes advice from colleagues who are working with the student.

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

- Ensure appropriate investigations have been carried out.
- Consider all the evidence available to support the allegations, considering all relevant policies.
- Allow the student to give their version of events, where possible.
- Collect evidence from a range of sources and/or witnesses, where reasonable.
- 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'. If the Headteacher is satisfied that on the balance of probabilities a student did what they are alleged to have done, a suspension/exclusion will be the outcome.





## How long can suspensions last?

- Students can be suspended/excluded on a fixed-period basis, i.e. up to 45 school days within a year or excluded permanently.
- Individual suspensions tend to last for between 1 and 5 days but can be longer.
- Permanent exclusion means the student will no longer be part of the school community and will attend another school.
- Students can be permanently excluded following a fixed-period suspension, where further evidence is presented.

## How is the length of time decided?

The Headteacher will decide on the length of suspension/exclusion in all cases. The length of the suspension /exclusion will depend on a number of different factors which may include, but are not limited to:

- Previous exclusion record.
- Severity of incident.
- Risk to others, and where and how the incident arose.
- Any mitigating factors that are identified.
- Any support that has been put in place.

The Headteacher will also consider vulnerable student groups whose suspension/exclusion rates are higher. These groups include the following:

- Looked After Children (LAC).
- Students eligible for Free School Meals (FSM).
- Students with Special Educational Needs and Disabilities (SEND).
- Certain ethnic groups.

In exceptional circumstances, where further evidence comes to light, a further fixed period suspension or a permanent exclusion can be issued to take effect after the initial fixed period suspension ends.

## How are parents informed?

When sending a student home following any suspension/exclusion, the Headteacher will ensure that they exercise their duty of care at all times and will always inform the parents via email and a telephone call.

This is followed by a letter explaining:

- The reason(s) for the suspension/exclusion. (Please note that the reason for suspension/exclusion is 'best fit' terminology in line with reporting to the local authority).
- The length of the fixed period suspension or, for a permanent exclusion, the fact that it is permanent.
- The date and time of the re-integration meeting (for suspended students only).
- Information on the right to raise any representations about the suspension/exclusion to the Aquinas Advisory Council, including how the student will be involved in this and how the representations will be made.



- Information on the right to attend a meeting where there is a legal requirement for the Aquinas Advisory Council to consider the suspension/exclusion, and the fact that they are able to bring an accompanying individual.
- The arrangements that have been made for the student to continue their education prior to the organisation of any alternative provision, or the student's return to school.
- Relevant sources of free and impartial information.

### What is a re-integration meeting?

Parents/carers and students are expected to attend re- integration meetings with a senior/appropriate colleague.

During these meetings, support is discussed and agreed on to help the student move forward from the incident that led to the suspension.

These meetings are minuted and minutes will be shared with the parents via email.

### Is work provided to complete at home?

Work is provided via the learning platforms used by the Academy e.g. ClassCharts. This will be included in the letter to parents informing them of the decision to suspend/exclude.

Reasonable steps will be taken to mark work for the suspended/excluded student.

**Note:** Work is not arranged for any student who is currently in their final year of compulsory education, and who does not have any further public examinations to sit.

## Permanent Exclusions

A decision to exclude a student permanently is a very serious one and, therefore, can only be taken by the Headteacher. It can be the final step in the process for dealing with disciplinary offences when a wide range of other strategies have been tried and have failed to secure improvement.

Where a student is permanently excluded for a build-up of negative events, it is an acknowledgement by the Headteacher that the Academy has exhausted all support strategies and interventions for the student and that to allow the student to remain in school would seriously harm the educational welfare of the student or others in the school.

The decision to exclude permanently may also be taken by the Headteacher when there has been a one-off serious breach of the school's published Behaviour Management policy and where the Headteacher believes that to allow the student to remain in school would seriously harm the educational welfare of the student or others in the school.

Such a decision may be taken as a result of any serious incident which can include assault of a member of staff or student, fighting, bringing offensive weapons into school, and the use or distribution of controlled substances within the school and its immediate vicinity.

The Headteacher will look at each case on its own merits in considering whether permanent exclusion is the most appropriate sanction, considering:



- The gravity of the incident, or series of incidents as detailed in the behaviour log, and whether it constitutes a serious breach of the Behaviour Management Policy; and,
- The effect that the student remaining in the school would have on the education and welfare of other students and adults.
- In the case of a student found in possession of an offensive weapon, whether there is an intention to use it or not. The Academy's usual policy in this particularly serious matter is to issue a permanent exclusion.
- If it is possible, the student may be placed another local school permanently without the need to permanently exclude. In this case, the Local Authority will be contacted to co-ordinate the move.

The Headteacher will consider avoiding permanently excluding LAC, those with Social, Emotional, Mental Health (SEMH) issues or students with an Educational Health and Care (EHC) plan.

Where SEND or SEMH issues are identified, an inclusive plan will be created as part of the graduated response outlined in the Academy's Behaviour Management Policy. If the student continues to endanger the physical or emotional wellbeing of other students or colleagues, despite exhausting the graduated response process, then permanent exclusion may be considered.

In accordance with the Equality Act 2010, under no circumstances will a student with identified SEND or SEMH issues be excluded before the graduated response process has been completed unless there is a danger to other members of the college community by not excluding/suspending.

If a student with SEND has been permanently excluded, the Academy will ensure that:

- Any alternative provision is arranged in consultation with the student's parents, who are able to request preferences.
- When identifying alternative provision, any EHC plan is reviewed or the student's needs are reassessed, in consultation with the student's parents.
- Request an emergency annual review of any EHC Plan.

### Off-site direction

The Headteacher should consider off-site directions or managed moves as preventative measures to exclusion and arrange for any registered student to attend at any place outside the Academy premises for the purpose of receiving educational provision intended to improve their behaviour.

The Headteacher will decide, in communication with the student and their parents, whether off-site direction is an appropriate solution to manage a student's behaviour and avoid suspension or exclusion. Where all parties agree to this course of action, the Academy will work with the student and their parents to discuss and agree a plan for the off-site direction, including a proposed maximum period of time that the student will be at the alternative provision and any alternative options that will be considered once the time limit has been reached, e.g. managed moves.

The Headteacher will notify parents, and the LA, if the student has an EHC plan, in writing with information about the placement no later than two school days before the relevant day.

The AAC of the Academy will keep any off-site placements under review by holding review meetings at intervals and will invite parents into each review meeting.



Where parents request, in writing, to hold a review meeting, the Headteacher and AAC will arrange a review meeting in response, as soon as is reasonably practicable, unless there has been a review meeting in the previous 10 weeks.

### **SWP - student who would have been permanently excluded**

Where it is thought to be in a student's best interest to transfer them to another mainstream school permanently, the Academy will discuss this with the student's parents, and the LA.

Please note, if the student has an EHC plan – this will only go ahead with the voluntary agreement of all parties involved, including the parents and the admission authority of the new school.

The Academy will ensure that records are kept of any decision to initiate a permanent move, including evidence that appropriate initial intervention has been carried out. The Academy will participate in information sharing with the student's new school, including sending data on prior and current attainment, academic potential and any risk management strategies. The Academy will also cooperate with the student's new school to create an effective integration strategy.

Parents who have concerns that a permanent move is being forced on them or who are unhappy with a permanent move will be referred to the Complaints Policy and Procedure.

### **Criminal investigations**

The Headteacher will not postpone taking a decision to suspend/exclude a student due to a police investigation being underway, or any criminal proceedings that are in place.

Particular consideration will be given by the Headteacher when deciding to suspend/exclude a student where evidence is limited by a police investigation, to ensure that any decision made is fair and reasonable.

If the Aquinas Advisory Council is required to consider the Headteacher's decision in these circumstances, they will not postpone the meeting and will decide based on the evidence available.

### **Aquinas Advisory Council Statutory Review**

The Aquinas Advisory Council will consider the reinstatement of an excluded student, where:

- The exclusion is permanent.
- The suspension is fixed period and would bring the student's total number of excluded school days to more than 15 in any given term.
- The suspension would result in the student missing a public examination.

Where suspension would result in a student missing a public examination, the Aquinas Advisory Council will consider the suspension before the examination to decide whether the student should be reinstated in time to take the examination. The Aquinas Advisory Council will also consider whether it would be appropriate to allow the suspended student to enter the premises to take the examination.

### **Parents' right to make representations**

In circumstances where parents feel their child has been suspended/excluded unfairly, they can appeal the decision – also known as 'making a representation'.



How representations are made to the Aquinas Advisory Council will depend on the length of the suspension/exclusion.

### **Fixed period suspensions of 5 days or less in a term**

The Aquinas Advisory Council must consider any written representations made by parents, but it cannot direct the reinstatement of the student and is not required to arrange a meeting with parents.

### **Fixed period suspensions between 6-15 days in a term**

Parents have the right to ask to make written representations and to meet with the Aquinas Advisory Council to review the suspension. The Aquinas Advisory Council will meet within 50 school days of receiving notification.

### **Fixed term suspensions which would bring the student's total number of school days of suspension to more than 15 in a term or permanent exclusion**

Parents will be invited to a meeting of the Aquinas Advisory Council – called a Statutory Review Panel. The Statutory Review Panel meeting must happen with 15 school days of the notification of the suspension/permanent exclusion.

Where it is appropriate to the student's age and level of understanding, the student will also attend any consideration meeting, and will be enabled to make a representation on their own behalf if they desire to do so.

## **Procedure**

The proceedings for meetings of the Aquinas Advisory Council are conducted in accordance with principles of fairness and natural justice.

Parents and, where requested, a friend or representative, the Headteacher, and a member of the Local Authority (if in attendance) will be able to make representations. Any meeting to consider reinstatement of a student will be arranged at a date and time convenient for all parties, and in compliance with any statutory time limits.

When considering the reinstatement of a suspended/excluded student, the Aquinas Advisory Council will ensure all parties:

- Have time to prepare and right of reply.
- Have the right (students and parents) to be represented or accompanied by a person of their choice.
- Be able to ask questions and call witnesses.
- Only discuss the exclusion with the parties present at the meeting.
- Ask for any written evidence prior to the meeting.
- Circulate any written evidence and information to all parties, at least five school days in advance of the meeting.
- Consider what reasonable adjustments need to be made to support the attendance and contribution of parties at the meeting.



- Identify the steps needed to enable and encourage the suspended/excluded student to attend the meeting and speak on their behalf, or how they may contribute personal views by other means if attendance is not possible.
- Consider the interests and circumstances of the suspended/excluded student, including the grounds for exclusion.

No panel member should have:

- Any involvement in earlier stages of proceedings; or,
- Been party to the head teacher's decision to exclude; or,
- Have a vested interest in the outcome of the proceedings.

### Reaching a decision

After considering a suspension/exclusion, the Aquinas Advisory Council will either:

- Decline to reinstate the student.
- Direct the reinstatement of the student immediately, or on a specified date.

If reinstatement would make no practical difference, e.g. if the student has already returned to school following a fixed-period exclusion or the parents make clear they do not want their child reinstated, the Aquinas Advisory Council will still consider whether the student should be officially reinstated, and whether the Headteacher's decision to exclude the student was fair, lawful and proportionate, based on the evidence presented.

The Aquinas Advisory Council will apply the civil standard of proof when responding to the acts relating to an exclusion, i.e. on the 'balance of probabilities' it is more likely than not that the facts are true.

To reach a decision, the Aquinas Advisory Council will:

- Identify the steps they intend to take to ensure that all parties involved will have the opportunity to participate and present their views.
- Ensure that minutes are taken of the meeting as a record of the evidence that was considered.
- Ask all parties to withdraw from the meeting before concluding their decision.
- Consider whether the exclusion of the student was lawful, proportionate and fair, considering the Headteacher's legal duties and any evidence that was presented to the Aquinas Advisory Council in relation to the decision to exclude.
- Record the outcome of the decision on the student's educational records, along with copies, which will be kept for at least six months.
- Make a note of their findings, where they have considered an exclusion but cannot reinstate the student.

### Notification of decision

The Aquinas Advisory Council will notify the parents of the suspended/excluded student, the Headteacher and the Local Authority (in the case of permanent exclusion) of their decision following the consideration of an exclusion, in writing and without delay.



In the case of a permanent exclusion, where the Aquinas Advisory Council decides not to reinstate the student, they will notify the parents:

- That it is permanent, and their right for it to be reviewed by an independent review panel.
- Of the date by which an application for review must be made.
- Of the name and address of whom the review application should be submitted to.
- That any application should set out the grounds on which it is being made and that, where appropriate, this should include reference to how a student's SEND is considered relevant to the exclusion.
- That, regardless of whether a student has been identified as having SEND, the parents have a right to require a SEND expert attends the review.
- Of the role of the SEND expert that will attend the review, and that the parents will not be charged for this.
- That they are required to make it clear if they wish for a SEND expert to attend the review.
- That they may appoint someone at their own expense to make representations to the panel.

The Aquinas Advisory Council will also notify parents that, if they believe an exclusion has been issued as a result of discrimination, then they are required to make a claim under the Equality Act 2010 to the First-tier Tribunal (SEND), and that this should be within six months of when the discrimination allegedly took place.

After any conclusion, the Aquinas Advisory Council will notify the parents, and all other parties involved, of the decision that was made and the reasoning for this, in sufficient detail.

### Independent review panel

The Local Authority will review the decision of the Aquinas Advisory Council not to reinstate a permanently excluded student if the parents submit their application for this within the required time frame.

The Local Authority will constitute an independent review panel of three or five members that represent the following categories:

- A lay member to chair the panel. This individual will not have worked in any school in a paid capacity.
- A current or former school governor who has served for at least 12 consecutive months in the last 5 years.
- A headteacher or individual who has been a headteacher within the last 5 years.

Parents are required to submit their applications within:

- 15 school days of the Aquinas Advisory Council's notification of their decision.
- 15 school days of the final determination of a discriminatory claim made under the Equality Act 2010.

Any application made outside of the above timeframe will not be reviewed. Parents are able to request an independent panel review even if they did not make a case to, or attend, the Aquinas Advisory Council's initial consideration of the exclusion.





The Local Authority will adhere to all statutory guidelines when conducting an independent panel review, as outlined in the DfE's statutory guidance document 'Exclusion from maintained schools, academies and pupil referral units in England'.

### **Appointing a SEND expert**

If requested by parents in their application for an independent review panel, the Local Authority will appoint a SEND expert to attend the panel and covers the associated costs of this appointment. Parents have a right to request the attendance of a SEND expert at a review, regardless of whether the school recognises that their child has SEND.

The Local Authority will make arrangements to indemnify the SEND expert against any legal costs and expenses reasonably incurred as a result of any decisions or actions connected to the review and which are taken in good faith.

An individual will not serve as a SEND expert if they have, or at any time have had, any connection with the Local Authority, Academy, parents or student, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their ability to act impartially; however, an individual is not taken to have such a connection solely because they are an employee of the Local Authority.

The SEND expert will be a professional with first-hand experience of the assessment and support of SEND, as well as an understanding of the legal requirements on schools in relation to SEND. Examples of suitable individuals might include educational psychologists, specialist SEND teachers, SENCOs and behaviour support teachers.

Recently retired individuals are not precluded from fulfilling this role; however, during interview, the Local Authority will assess the knowledge of such individuals in order to ensure that they have a good understanding of current practice and the legal requirements on schools in relation to SEND.

Whilst individuals are not automatically taken to be partial simply because they are an employee of, or contracted by, the Local Authority, they will not have had any previous involvement in the assessment or support of SEND for the excluded student, or siblings of the excluded student. The Local Authority will request that prospective SEND experts declare any conflict of interest at the earliest opportunity.

The final decision on the appointment of a SEND expert is for the Local Authority to make, but it will take reasonable steps to ensure that parents have confidence in the impartiality and capability of the SEND expert. Where possible, this will include offering parents a choice of SEND expert. In order to meet its duties within the statutory time frame, the Local Authority will consider maintaining a list of individuals capable of performing the role of SEND expert in advance of a request.

The Local Authority will determine the amount of any payment in relation to the appointment of the SEND expert, such as financial loss, travel and subsistence allowances.

### **The role of a SEND expert**

The SEND expert's role is analogous to an expert witness, providing (orally and/or written) impartial advice to the panel on how SEND might be relevant to the exclusion. The SEND expert will base their





advice on the evidence provided to the panel. The SEND expert's role does not include making an assessment of the student's SEND.

The focus of the SEND expert's advice will be on whether the academy's policies which relate to SEND, or the application of these policies in relation to the excluded student, were legal, reasonable and procedurally fair. If the SEND expert believes that this was not the case, they will, where possible, advise the panel on the possible contribution this could have made to the circumstances of the student's exclusion.

Where the Academy does not recognise that a student has SEND, the SEND expert will advise the panel on whether they believe the Academy acted in a legal, reasonable and procedurally fair way with respect to the identification of any SEND that the student may potentially have, and any contribution that this could have made to the circumstances of the student's exclusion.

The SEND expert will not criticise a school's policies or actions simply because they believe a different approach should have been followed or because another school might have taken a different approach.

### **Appointing a clerk**

The Local Authority will decide whether to appoint a clerk to the independent review panel, or to make alternative arrangements to administer the panel.

Where a clerk is appointed, the Local Authority will ensure that the clerk did not serve as clerk to the Aquinas Advisory Council when the decision was made not to reinstate the student.

### **The role of a clerk**

The clerk's role is to provide advice to the panel and parties to the review on procedure, law and statutory guidance on exclusions.

The clerk will:

- Identify, in advance of the meeting, whether the excluded student wishes to attend the panel hearing, taking reasonable steps to enable the student to feedback their views, irrespective of their attendance.
- Identify, in advance of the meeting, whether any alleged victims of the incident(s) leading up to the exclusion wish to attend the panel hearing, taking reasonable steps to enable them to feedback their views, irrespective of their attendance.
- Ensure that the panel is able to hear from any witnesses to the incident(s) leading to the exclusion, considering the fact that some of these people may be students at the school. Students under 18 will not be allowed to appear in person without parental consent.
- Inform the parents, Headteacher, Aquinas Advisory Council and the Local Authority, that they are entitled to make oral and written representations to the panel, attend the hearing, and be represented.
- Ensure that all parties are:
  - Provided with copies of relevant papers at least five school days before the review, notifying the panel if any requested documents have not been provided in case the panel wishes to adjourn until a later date.



- Informed about who is attending the meeting, and what their roles are.
- Attend the review and ensure that minutes are produced in accordance with instructions from the independent review panel.

Where a clerk is not appointed, the Local Authority will undertake the functions outlined above.

### **The duties of the independent review panel**

The role of the panel is to review the decision of the Aquinas Advisory Council not to reinstate a permanently excluded student. In reviewing the decision, the panel will consider the interests and circumstances of the excluded student, including the circumstances in which the student was excluded, and have regard to the interests of other students and people working at the school. The panel will apply the civil standard of proof, rather than the criminal standard of 'beyond reasonable doubt'.

Following the review, the panel will do one of the following:

- Uphold the decision.
- Recommend that the Aquinas Advisory Council reconsiders reinstatement.
- Quash the decision and direct that the Aquinas Advisory Council reconsiders reinstatement.

The panel's decision does not have to be unanimous and can be decided by a majority vote. It is binding on the students, parents, the Aquinas Advisory Council, Headteacher and the Local Authority.

### **Reconsidering reinstatement following a review**

Where the independent review panel instructs the Aquinas Advisory Council to reconsider their decision not to reinstate a student, they will do so within 10 school days of being given notice of the review panel's decision.

Following reconsideration, the Aquinas Advisory Council will notify the parents, the Headteacher and the Local Authority of their reconsidered decision and the reasons for this.

### **Duty to inform the Aquinas Advisory Council and Local Authority**

The Headteacher will inform the Aquinas Advisory Council and Local Authority (LA), without delay, of the following:

- Any permanent exclusions (including where a fixed-period exclusion is followed by a decision to permanently exclude the student).
- Any exclusions which would result in the student being excluded for more than five school days in a term.
- Any exclusions which would result in the student being absent from an examination or national curriculum test.

For any exclusions, other than those above, the Headteacher will notify the Aquinas Advisory Council once per term. All notifications to the Aquinas Advisory Council and LA will include the reasons for exclusion and the duration of any fixed-period exclusion.



If the student who is permanently excluded lives outside the LA in which the Academy is located, the Headteacher will notify the students 'home authority'.

### **Removing permanently excluded students from the school register**

The Headteacher will remove students from the school register if:

- 15 school days have passed since the parents were notified of the Aquinas Advisory Council's decision not to reinstate the student and no application for an independent panel review has been received.
- The parents have stated in writing that they will not be applying for an independent panel review following a permanent exclusion.

If an application for an independent panel review has been made within 15 school days, the Headteacher will wait until the review has been determined, or abandoned, and until the Aquinas Advisory Council has completed any reconsideration that the panel recommended or directed it to carry out, before removing the student from the school register.

If a student's name is to be removed from the register, the Headteacher will make a return to the Local Authority, which will include:

- All the particulars which were entered in the register.
- The address of any parent with whom the student normally resides.
- The grounds upon which the student's name is to be removed from the register.

Any return to the Local Authority will be made as soon as the grounds for removal are met and no later than the date in which the student's name was removed.

If a student's name has been removed from the register and a discrimination claim is made, the student may be reinstated following a decision made by the First-tier Tribunal (SEND) or County Court.

Whilst a student's name remains on the admissions register, the appropriate code will be used to mark the student's attendance:

- Code B: Education off-site.
- Code D: Dual registration.
- Code E: Suspension/exclusion.

### **Monitoring and evaluation**

Behaviour management will be under constant review throughout the school. The leadership team will monitor and evaluate the effectiveness of the policy. A regular report of exclusions will be given to the Trust. This policy is formally reviewed annually.

*November 2019 BBL*

*December 2020 BBL*

*March 2022 BBL*

*April 2022 BBL*



**December 2022 DDo – SB**  
**March 2023 DDo**

## EQUALITIES

*We recognise that our pupils bring with them a wide variety of behaviours influenced by life experiences outside school. We aim to respond to each case professionally, objectively and compassionately. We are sensitive when working with children and families with specific needs and experiences and we continuously seek ways to promote successful partnerships. The basis of differentiation will vary dependant on the needs of each case, but we will take into account the views of parents and families, colleagues and external agencies together with any Statement of Special Educational Need or Education, Health and Care Plan. We will also ensure compliance with the Trust's Equality Policy taking into account pupils with protected characteristics and making reasonable adjustments for pupils with a disability within the meaning of the Equality Act 2010. Both the school and Trust respects the Public Sector Equality Duty (PSED) that requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. By following the Trust's Equality Policy, the school seeks to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by such legislation.*

## DATA PROTECTION

*Rye College [The Academy] processes personal data in accordance with the data protection principles embodied in the General Data Protection Regulations (GDPR) and the Data Protection Act 2018. The Academy complies with the requirements of the data protection legislation as detailed in the Trust Data Protection Policy.*

*All colleagues are aware of the principles of data protection and will not process personal data unless necessary. The Academy safeguards the personal data it collects through the operation of the Trust's data protection policy and processes and the IT policy. In addition, the Academy has taken steps to ensure that all its contracts that process data have the GDPR compliant provisions.*