



# Suspension and Exclusion Policy



Trust Approved: 7<sup>th</sup> March 2024

## Overarching Aims

Endeavour Learning Trust ('The Trust') believe realizing the potential of our children is underpinned by good behaviour and discipline in our academies, which is essential for promoting high-quality education. The Trust aims to ensure that, within each of our schools and academies:

- Children are safe and happy
- Every child is recognised as an individual who is known, heard and cared for.
- The exclusions process is applied fairly and consistently
- The exclusions process is understood by members of the Local Academy Council, staff, parents, and students.
- Students do not become NEET (not in education, employment, or training)

## Statement of Intent

Amongst other disciplinary sanctions, the school recognises that suspension and exclusion of pupils may be necessary where there has been a serious breach, or consistent persistent breaches, of the school's Behaviour Policy and where allowing the pupil to remain in school would be damaging to the education and welfare of themselves or others; in all cases, suspending or excluding pupils should only be used as a means of last resort.

The Trust has created this policy to clearly define the legal responsibilities of the Headteacher, Governing Board and Local Authority when responding to pupil suspensions and exclusions, to ensure that they are dealt with both fairly and lawfully, and in line with DfE statutory guidance. This policy also aims to secure a pupil's right to an education despite having been suspended or excluded, by ensuring that appropriate arrangements are in place.

## Definitions

A "suspension" is defined as the temporary removal of a pupil from the school for behaviour management purposes. A pupil may be suspended for one or more fixed periods, up to a maximum of 45 school days in a single academic year. A suspension does not have to be for a continuous period. Suspensions were previously known as 'fixed-term' exclusions.

An "exclusion" is defined as the permanent removal of a pupil from the school, in response to a serious breach or persistent breaches of the school's Behaviour Policy, and where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil and or others such as pupils or staff in the school.

For the purposes of exclusions, a 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.

All lunchtime suspensions will be counted as half a school day.

## Legislation and statutory guidance

This policy is based on the following legislation, which outline schools' powers to exclude students:

- Sections 19 and 157 Education Act 1996 ;
- Section 579 Education Act 1996 which defines 'school day';
- Section 52 of the Education Act 2002, as amended by the Education Act 2011.
- The School Discipline (Student Exclusions and Reviews) (England) Regulations 2012.

Part 7, chapter 2 of the Education and Inspections Act 2006, which looks at parental responsibility for excluded students.

The Education (Provision of Full-Time Education for Excluded Students) (England) Regulations 2007, as amended by The Education (Provision of Full-Time Education for Excluded Students) (England) (Amendment) Regulations 2014.

The policy recognises The Equality Act 2010 and has due regard to statutory and non- statutory guidance, including, but not limited to, the following:

- DfE (2023) '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 school policies

- Behaviour and Rewards Policy
- Anti-bullying Policy
- Pupil Code of Conduct
- Special Educational Needs and Disabilities (SEND) Policy
- Social, Emotional and Mental Health (SEMH) Policy
- Child Protection and Safeguarding Policy

## Roles and Responsibilities

### Local Authority

- Having due regard to the relevant statutory guidance when carrying out its duties in relation to the education of Looked After Children (LAC).
- Arranging suitable full-time education for any pupil of compulsory school age excluded permanently, in coordination with the school.
- Reviewing and reassessing pupils' needs in consultation with their parents where they have an EHC plan and are excluded permanently, with a view to identifying a new placement.
- Via a Service Level agreement with the Trust, coordinate the arrangements for an independent review panel (IRP) hearing to review the decision of the governing board not to reinstate a permanently excluded pupil where required (further information in Annex 1).

### Governing Board

The Trust and its Local Academy Councils are responsible for:

- Providing information to the Secretary of State and LA about any suspensions and exclusions within the last 12 months.
- Arranging suitable full-time education for any pupil of compulsory school age who is suspended, where required.
- Considering parents' representations about suspensions and exclusions within 15 school days of receiving notice if the appropriate requirements are met.
- Where a suspension or exclusion would result in a pupil missing a public examination or test, considering the suspension or exclusion before this date.

- Considering whether it would be appropriate for a pupil to be permitted onto the school premises to sit the public examination or test.
- Arranging the representation meeting (Pupil Discipline Panel) at a time and date convenient to all parties, but in compliance with the statutory time limits.
- Arranging for the representation meeting to take place via remote access where requested by parents or excluded pupils aged 18 and over.
- Adhering to its responsibilities to consider the reinstatement of pupils.
- Considering the interests and circumstances of the suspended or excluded pupil, including the circumstances in which they were suspended or excluded, and have due regard to the interests of others at the school.
- 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 a suspension or exclusion.
- Ensuring clear minutes are taken of the representation meeting.
- Noting the outcome of the representation meeting on the pupil's education record, along with copies of relevant papers for future reference.
- Notifying the pupil's parents, the headteacher and the LA of its decision and the reasons for it, without delay.
- Appointing a clerk to provide advice to the relevant panel and parties to the review on procedure, law and statutory guidance on suspensions and exclusions.
- Where appropriate, informing parents of where to apply for an independent review panel.
- Informing parents of relevant sources of information.
- Ensuring a pupil's name is removed from the school admissions register, where appropriate.
- Reconvening within 10 school days to reconsider reinstatement of a pupil where directed to do so by the suspensions and exclusions review panel (IRP).
- Using data to evaluate the school's practices regarding intervention, suspension and exclusion.

### Clerk

The Clerk to the suspensions and exclusions review panel is responsible for:

- Informing 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.
- Circulating 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 review and ensuring that minutes are produced in accordance with instructions from the panel within the timeframe of the policy.

## Headteacher

### General Principles

- Implementing good levels of discipline to ensure all pupils can benefit from the opportunities provided by education and to minimise potential suspensions and exclusions.

### Decision for Suspension or Exclusion

Only the Headteacher, or acting Headteacher, can exclude or suspend a student from school. A permanent exclusion will be taken as a last resort.

The Trust is aware that off-rolling is unlawful. Ofsted defines off-rolling as:

*“...the practice of removing a student 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 student.”*

The Trust is committed to following all statutory exclusions procedures to ensure that every child receives an education in a safe and caring environment. A decision to exclude a student will be taken only:

- Where it is absolutely necessary and with all other possible disciplinary sanctions as detailed in the school's Behaviour Policy, have failed to be successful.
- In response to serious or persistent breaches of the school's behaviour policy and
- If allowing the student to remain in school would seriously harm the education or welfare of the pupil or others in the school.
- Before deciding whether to exclude or suspend a student, the Headteacher will:
- Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion or suspension were provoked.
- Allow the student to give their version of events (Pupil Voice).
- Applying the civil standard of proof when establishing the facts in relation to a suspension or exclusion.
- Complying with their statutory duties in relation to pupils with SEND when administering the suspension or 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 pupil has suffered bereavement, experienced bullying or has a mental health issue.
- Considering the use of a multi-agency assessment for a pupil who demonstrates persistent disruptive behaviour.
- Reviewing the effectiveness of suspensions and exclusions as sanctions, e.g. if a pupil has received multiple suspensions or is approaching the legal limit for suspensions in an academic year.
- Considering what extra support may be needed to identify and address the needs of individual pupils, particularly those with SEND, those eligible for Free School Meals (FSM), Looked After Children (LAC) and those from certain ethnic groups.

- Engaging effectively with parents in supporting the behaviour of pupils with additional needs.
- Adhering to their responsibilities when cancelling an exclusion before the Pupil Discipline Panel has met to consider whether the pupil should be reinstated. When a suspension or exclusion is cancelled, the Local Academy Council's Pupil Discipline Panel duty to consider reinstatement ceases, and there is not requirement to hold a meeting to consider reinstatement.
- Ensuring any decision to suspend or exclude is lawful, rational, reasonable, fair and proportionate.
- Complying with the requirements of the Equality Act 2010 when deciding whether to suspend or exclude a pupil.
- Ensuring they have considered their legal duty of care when sending a pupil home following a suspension or exclusion.
- Making the decision to suspend or exclude based on the evidence available at the time, regardless of any police investigation and/or criminal proceedings.
- Consider whether it is in the best interests of all parties to initiate off-site directions or managed moves as preventative measures to exclusion.
- Organising suitable work for excluded pupils where alternative provision cannot be arranged.

#### Notifications

- Notifying a pupil's parents without delay where the decision is taken to suspend or exclude the pupil, including the days on which the parents must ensure the pupil 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 Local Academy Council representatives and Local Authority of their decision to exclude a pupil where appropriate, as well as the pupil's home authority if required.
- Notifying the Local Academy Council once per term of any exclusions in the Headteacher's report.
- Where appropriate, will also inform the child's social worker and Virtual School Headteacher. These advocates will be allowed to join any meeting remotely as long as the arranging authority is satisfied they will participate effectively and the meeting will be fair and transparent.

#### Alternative Provision

If alternative provision is being arranged, the following information will be included when notifying parents of the suspension:

- 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 student to identify the person they should report to on the first day.

Where this information on alternative provision is not reasonably attainable by the end of the afternoon session, it may be provided in a subsequent notice, but will be provided not 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 a suspension or exclusion, in which case the information can be provided with than 48 hours notices with parents' consent.

#### Considering the reinstatement of a student

The Local Academy Council's Pupil Discipline Panel (the Panel) will consider the reinstatement of an excluded student within 15 school days of receiving the notice of the exclusion if:

- The exclusion is permanent
- It is a suspension which would bring the student's total number of school days suspended to more than 15 school days in a term
- It would result in a student missing a public examination or national curriculum test

The requirements are different for suspensions where a student would be excluded for more than five but less than 15 school days in the term. In this case, if the parents make representations, the Panel must consider within 50 school days of receiving the notice of exclusion, whether the excluded student should be reinstated. In the absence of any representations from the parents, the governing board is not required to meet and cannot direct the reinstatement of the student.

Where an exclusion would result in a student missing a public examination, the Panel will consider the reinstatement of the student before the date of the examination. If this is not practicable, the Chair of Trustees will consider the exclusion and decide whether or not to reinstate the student.

The Panel can either decline to reinstate the student, or direct the reinstatement of the student immediately, or on a particular date

In reaching a decision, the 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 student's educational record.

The Panel will notify, in writing, the Headteacher, parents and the Local Authority of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, and the Panel's decision is to uphold, the outcome letter will also include the following:

- The fact that it is permanent exclusion.
- Notice of parents' right to ask for the Panel's decision to be reviewed by an independent review panel (IRP), 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 student's SEN are considered to be relevant to the exclusion

- That, regardless of whether the excluded student has recognised SEN, parents have a right to require the Trust to appoint a SEN expert to attend the IRP1.
- 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 a 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

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 six months of the date on which the discrimination is alleged to have taken place.

#### [An Independent Review Panel \(IRP2\)](#)

If parents apply for an independent review, the Clerk to the Trust Board will arrange for an independent panel to review the decision of the Panel not to reinstate a permanently excluded student.

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

The process and training required for an IRP are detailed in Appendix 1.

#### [School registers](#)

A student'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 student 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 school, on behalf of the Local Academy Council will wait until that review has concluded before removing a student's name from the register.
- Where alternative provision has been made for an excluded student and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.
- Where excluded students are not attending alternative provision, code E (absent) will be used.

#### [Returning from a suspension or reinstatement following an exclusion](#)

Following a suspension or a reinstatement from a permanent exclusion, a reintegration meeting<sup>3</sup> will be held involving the student, parents, a member of senior staff and other staff, where appropriate.



The following measures may be implemented when a student returns from a suspension or is reinstated after a review of a permanent exclusion:

- Reflection on the reasons for the suspension or exclusion
- Review of school behaviour expectations in line with the Behaviour Policy
- Agreeing a behaviour contract
- Review of the pastoral support plan (including external agency support) – making any necessary amendments
- Utilising the report stage of the Behaviour Policy
- Internal isolation – if deemed the most appropriate course of action

#### Monitoring arrangements

The Headteacher monitors the number of exclusions and suspensions every term and reports back to the Local Academy Council. They also liaise with the Local Authority to ensure suitable full- time education for excluded students.

This policy will be reviewed by the Trust Board every two years. At every review, the policy will be approved by the Trust Board and shared with each of the Local Academy Council and School leadership for adoption.

## ANNEX 1: INDEPENDENT REVIEW PANEL

### Overview

An independent review panel (IRP) hearing will review the decision of the Governing Board not to reinstate a permanently excluded pupil where required. Parents are required to submit their applications within:

- 15 school days of the LSC'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 Panel's initial consideration of the exclusion. This meeting can be held via remote access where requested by parents or excluded pupils aged 18 and above.

### Arrangements/Process

A panel of three or five members will be constituted with representatives from each of the categories below:

- 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/Local Academy Governing Board members who have served in this capacity for at least 12 consecutive months in the last five years, provided they have not been teachers or Headteachers during this time.
- Headteachers or individuals who have been a Headteacher within the last five years.

Where a five-member panel is constituted, two members will come from the Local Academy Governing Board members category and two members will come from the Headteacher category.

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

- Are a Member or Director of the Trust, or Local Academy Council of the excluding school/academy.
- Are the Headteacher of the excluding school, or have held this position in the last five years.
- Are an employee of the Trust or the Local Academy Council, 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 Trust, school, Local Academy Council, parents or student, 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 two years (see below)
- The independent review panel will decide one of the following:
  - Uphold the Local Academy Council (Panel) decision
  - Recommend that the Local Academy Council reconsiders reinstatement
  - Quash the Local Academy Council's decision and direct that they reconsider reinstatement (only when the decision is judged to be flawed)

The IRP's decision can be decided by a majority vote. In the case of a tied decision, the chair has the casting vote

## Training

The Trust will ensure that all members of an independent review panel and clerks have received training within the 2 years prior to the date of the review. Training will cover:

- The requirements of the primary legislation, regulations, and statutory guidance governing exclusions, which would include an
- understanding of how the principles applicable in an application for judicial review relate to the panel's decision making.
- The need for the panel to observe procedural fairness and the rules of natural justice. The role of the Chair and the Clerk of a review panel.
- The duties of headteachers, Local Academy Boards and the panel under the Equality Act 2010.
- The effect of section 6 of the Human Rights Act 1998 (acts of public authorities unlawful if not compatible with certain human rights) and the need to act in a manner compatible with human rights protected by that Act.

## SEND expert – Appointment / Role

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 cover 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 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 pupil's SEND.

The focus of the SEND expert's advice will be on whether the school's policies which relate to SEND, or the application of these policies in relation to the excluded pupil, 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 pupil's exclusion.

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

## Clerk – Appointment/Role

The Local Authority will decide whether to appoint a clerk to the independent review panel, or to make alternative arrangements to administer the panel. The Local Authority will ensure that the clerk did not serve as clerk to the LSC when the decision was made not to reinstate the pupil. The clerk's role is to provide advice to the panel and parties to the review on procedure, law and statutory guidance on exclusions.