



## Exclusion Policy

This policy applies all pupils in the school, including in the EYFS

Signed:	
Chair of Trust Board:	Claire Delaney
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### 1. Aims

Our school aims to ensure that:

- The exclusions process is applied fairly and consistently
- The exclusions process is understood by local advisers, 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](#).

It is based on the following legislation, which outline schools' powers to exclude pupils:

- Section 52 of the [Education Act 2002](#), as amended by the [Education Act 2011](#)
- [The School Discipline \(Pupil Exclusions and Reviews\) \(England\) Regulations 2012](#)
- Sections 64-68 of the [School Standards and Framework Act 1998](#)

In addition, the policy is based on:

- Part 7, chapter 2 of the [Education and Inspections Act 2006](#), which looks at parental responsibility for excluded pupils
- Section 579 of the [Education Act 1996](#), which defines 'school day'
- The [Education \(Provision of Full-Time Education for Excluded Pupils\) \(England\) Regulations 2007](#), as amended by [The Education \(Provision of Full-Time Education for Excluded Pupils\) \(England\) \(Amendment\) Regulations 2014](#)

This policy complies with our funding agreement and articles of association.

### 3. The decision to exclude

We expect all members of the school community to act in a reasonable, supportive and respectful manner in ensuring the well-being of our community. Where this is compromised by the conduct of a child or parent exclusion will be considered.

Only the Headteacher, or acting/interim 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

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

- Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked
- Allow the pupil to give their version of events
- Consider if the pupil has special educational needs or a disability (SEND)

The school will apply its behaviour policy in a consistent, rigorous and non-discriminatory way and all areas of application of the policy will be monitored routinely. The following forms of exclusion are available as an ultimate sanction

- On-site Exclusion – removal from usual activities but not from the school site; such an exclusion can last up to a full day. This internal exclusion may be the initial part of a fixed term exclusion while the school awaits the collection of the child by parents.
- Fixed Term Exclusion – the child is removed from school for set period of time at the discretion of the school.
- Permanent Exclusion – the child is removed from the school roll. This will be preceded by a fixed term exclusion to ensure proper investigation and consideration of events.

Parents are also subject to the above conditions, relating to fixed term and permanent exclusion, where the welfare other members of the school community are threatened by the conduct of a parent.

Sanctions applied to a parent may include

- On site - Access to the site and school events is only permitted under certain conditions.
- Fixed Term - Barring the parent from the site and school events for a fixed period
- Permanent – Permanent barring from the school site. Removal of children from the school roll

The school will communicate with the police where it is deemed necessary for the welfare of the community.

The power to fixed-term exclude a pupil can only be exercised by the Head, in the absence of the Head, and then only in consultation with the Head or Chief Executive if the Head is uncontactable. If a pupil is excluded, the parents are informed immediately, giving reasons for the exclusion. The Head will discuss all exclusions with the BPET Chief Executive. A member of the LGB will monitor exclusions and ensure that the school policy is administered fairly and consistently.

Exclusion may be the result of repeated failure to abide by the school's expectations of good conduct, or to respect for its aims and ethos. However, exclusion may also result from a single serious incident, which may include the following:

- Threatened or committed violence or abusive language against other members of the school community

- Distribution of illegal drugs
- Bringing into school objects which may cause harm to other members of the community or pornographic literature or images.
- Stealing from the school, a member of staff or a fellow pupil
- Malicious or disruptive behaviour, including open defiance of authority
- Engaging in sustained bullying of other pupils
- Making allegations against a member of the school community which are confirmed to be malicious
- Malicious use of social media

### **Provision of work/learning**

When a pupil is excluded for more than one day, work should be set by the school within a reasonable time-scale and this should be returned to the school when the exclusion is over. If a child is excluded at the end of a school day, then it may not be possible to arrange for work to be set until the following morning.

A pupil can be excluded for up to 10 continuous days on a fixed term basis. On the 6<sup>th</sup> continuous day, the school is responsible for providing education for the pupil, which could be at another local school, the pupil referral unit or by providing home education.

Every pupil has a right to confidentiality during the consideration of a possible exclusion; an investigation will be undertaken in the strictest confidence and the details only disclosed to those who need to know. This does not preclude the conclusion of an investigation being made public to the school community on completion of an investigation, if the person being investigated has been found to be culpable. If the School decides (after completing the investigation or as a result of new evidence and further investigation) that it is necessary to extend a fixed term temporary exclusion or to convert it into a permanent exclusion, the Head will write again to the parent with the reasons for this decision.

## **4. Definition**

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.

## **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 about the exclusion to the governing board and how the pupil may be involved in this
- Where there is a legal requirement for the Chief Executive Officer/Director of Education and other relevant persons 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
- Work/learning for pupils during the first five school days of an exclusion which must then be marked and followed up with the child (unless the child does not return to school)

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, 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 (e.g. at another BPET school) 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 Trust Central Team and local authority**

The Headteacher will immediately notify the Trust Central Team (CEO or Director of Education) and the local authority (LA) of:

- A permanent exclusion, including when a fixed-period exclusion is made permanent
- Exclusions which would result in the pupil being excluded for more than 5 school days (or more than 10 lunchtimes) in a term
- Exclusions which would result in the pupil missing a public examination

For a permanent exclusion, if the pupil lives outside the LA in which the school is located, the Headteacher will also immediately inform the pupil's 'home authority' of the exclusion and the reason(s) for it without delay.

For all other exclusions, the Headteacher will notify the BPET CEO/Director of Education and LA once a term.

### **5.2 Governance of Exclusions – BPET CEO/Director of Education**

Responsibilities regarding exclusions is delegated to the BPET CEO/Director of Education.

They have a duty to consider the reinstatement of an excluded pupil (see section 6) including the consultation with or appointment of an independent panel (see Stage 2 and 3 of flow chart/table).

For a fixed-period exclusion of more than 5 school days, the BPET CEO/Director of Education will arrange suitable full-time education for the pupil (usually at another BPET school). This provision will begin no later than the sixth day of the exclusion.

### **5.3 The LA**

For permanent exclusions, the LA is responsible for arranging suitable full-time education to begin no later than the sixth day of the exclusion.

The Headteacher must inform the LA as soon as a decision has been made to permanently exclude if this has not been discussed at an earlier stage (the appropriate form must also be completed and returned to the LA – see appendixes).

## 6. Considering the reinstatement of a pupil

A panel of three independent advisers will be appointed by the BPET CEO/Director of Education 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 panel will consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion if the pupil would be excluded from school for more than 5 school days, but less than 15, in a single term.

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

The panel can either:

- Decline to reinstate the pupil, or
- Direct the reinstatement of the pupil immediately, or on a particular date

In reaching a decision, the 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 panel will notify, in writing, the Headteacher, parents (and the LA if it is permanent exclusion) of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the panel's decision will also include the following:

- The fact that it is permanent
- Notice of parents' right to ask for the decision to be reviewed by an independent review panel, and:
  - The date by which an application for an independent review must be made
  - The name and address to whom an application for a review should be submitted
  - That any application should set out the grounds on which it is being made and that, where appropriate, reference to how the pupil's SEND are considered to be relevant to the exclusion
  - That, regardless of whether the excluded pupil has recognised SEND, parents have a right to require the Trust to appoint an SEND expert to attend the review
  - Details of the role of the SEND expert and that there would be no cost to parents for this appointment
  - That parents must make clear if they wish for an SEND 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 Trust will arrange for an independent panel to review the decision of the panel 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 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 local advisory board 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 local adviser or volunteer
- Local advisers who have served as an adviser 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 trustee of the Trust 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 Trust 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, 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 panel's decision
- Recommend that the panel reconsiders reinstatement
- Quash the panel'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 school 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:

*The points below are suggestions only and should be adapted to your school's specific circumstances.*

- *Reiteration of expected behaviour and adherence to the school rules/expectations for behaviour and learning*
- *Agreeing a behaviour contract*
- *Internal isolation (e.g. spending morning play time inside with 2 friends playing co-operatively, an inside club for a small group of children including the children who is returning following an exclusion) – include the length of time or criteria to be fulfilled when this is implemented*
- *Implementing a 'report' that the child must have completed each session/day and shown to a Headteacher/ SLT member, etc.*

### **10. Managed Move**

In cases where the Headteacher and parents agree that the progress of the pupil has been unsatisfactory and the pupil is unwilling or unable to profit from the educational opportunities offered, or if a parent's failure to engage in strategies implemented by the school are resulting in a continuing pattern of poor behaviour or lack of improvement in behaviour, the Headteacher may consult with the Local Authority and propose a managed move to another school. This is not exclusion and in such cases the Headteacher may assist the parents in placing the pupil in another school.

### **11. Monitoring arrangements**

The Behaviour Lead/Headteacher monitors the number of exclusions every term and reports back to the BPET CEO/Director of Education. They also liaise with the local authority to ensure suitable full-time education for excluded pupils.

This policy will be reviewed every 3 years. At every review, the policy will be shared with staff and the Trust Central Team.

### **12. Links with other policies**

This exclusions policy is linked to our:

- Behaviour policy
- SEND/Inclusion policy



### **Appendix 1: independent review panel training**

The Trust must 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 must have covered:

- 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, governing 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

### **Appendix 2: Flow chart**

### **Appendix 3: Model letter to parent regarding FIXED TERM exclusion**

### **Appendix 4: Model letter to parent regarding PERMANENT exclusion**

### **Appendix 5: Local Authority notification proforma for permanent and fixed term exclusions of more than 5 days/where an exam is missed**

Schools should insert their LA proforma here.

### **Appendix 6: BPET CEO/Director of Education and Local Authority notification proforma for termly notification of fixed term exclusions**

Schools should insert their LA proforma here and send a copy of this to the CEO/DoE termly also.