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Exclusions Policy

Scope and publication

The policy sets out guidelines and circumstances under which a pupil may be excluded on a fixed-term or permanent basis from an Anthem Schools Trust school and applies to all pupils at all Trust schools, including those who may be below or above compulsory school age. The policy is available on each school website and can be made available in large print or other accessible formats if required.

In this policy the term Headteacher also includes the Principal, Head of School and any Acting Headteacher.

Relationship to other policies

This policy should be read in conjunction with the school's Behaviour Policy as well as other relevant school policies, particularly the Inclusion Policy, Special Educational Needs Policy and the Equality & Diversity Policy. It also has a close inter-relationship with the Anti-Bullying Policy and Attendance Policy.

Guidance and legislation

This policy is drafted to be compliant with the *'Exclusion from maintained schools, academies and pupil referral units in England'* (July 2017) statutory guidance:

<https://www.gov.uk/government/publications/school-exclusion>

This policy reflects changes that were made to the previous 2012 guidance document. It contains a summary of the statutory guidance and is not intended to provide a full account of all the guidance content which should be read alongside this policy. It is understood that the 2017 guidance is due to be updated by the DfE this year (2020) and this policy will be updated once this new guidance has been released.

This policy also takes account of our public-sector equality duty set out in section 149 of the Equality Act 2010.

Statement of principles

Permanent exclusion will only be used as a last resort, 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 or others in the school.

We seek to reduce the number of incidents leading to exclusions by promoting a positive atmosphere of mutual respect and discipline within the school.

We regularly monitor the number of exclusions to ensure that no group of students is unfairly disadvantaged through their use and that any underlying needs of individuals are being fully met.

Authority to exclude

A fixed-term exclusion from the school can only be authorised by the Headteacher or one of the Deputy Headteachers acting on their behalf. If none are available to authorise the exclusion a decision should be deferred until the opportunity for authorisation is available.

In the case of a permanent exclusion this can only be authorised by the Headteacher, after approval by the relevant Education Director, and must not be delegated to anyone else. The Trust can be consulted to assist in this decision, but the final decision will always rest with the Headteacher. Trust legal advice must always be sought by the Headteacher where any exclusion involves a child with SEN or a disability, or a looked after or previously looked after child or for any exclusion where the circumstances are particularly complex.

The Headteacher may withdraw an exclusion that has not been reviewed by the Local Governing Body.

Decision to exclude

A pupil may be excluded for one or more fixed periods, up to a maximum of 45 school days in a single academic year. They can also be excluded permanently.

A decision to permanently exclude a pupil will only be taken:

- in response to a serious breach, or persistent breaches, of the school's behaviour policy; and
- where a pupil's behaviour means that allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

The decision will always be:

- Lawful
- Rational
- Reasonable
- Fair
- Proportionate

When establishing the facts in relation to a possible exclusion, the Headteacher will always 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.'

When considering exclusion, the Headteacher will take into account:

- possible short-term mitigating circumstances such as bereavement, mental health issues etc
- whether the pupil comes into a category that is known to be a particularly vulnerable group (e.g. pupils with SEN, FSM pupils; looked after children; certain ethnic groups; traveller children) and whether all preventative strategies have been fully utilised
- whether a pupil has already had a number of fixed-term exclusions which appear to have been ineffective.

The Headteacher may:

- use internal exclusion systems such as time out in designated areas of the school
- direct a pupil for education off-site to improve behaviour, or to arrange a 'managed move' for the same reason, but this will only be considered when there has been full consultation and agreement with parents and the receiving institution
- consider the behaviour of a pupil outside school as grounds for an exclusion.

The Headteacher will not:

- exclude any pupil for non-disciplinary reasons
- use exclusion informally or unofficially, children will not be sent home to 'cool off' even with parents' permission
- extend a fixed-period exclusion or 'convert' a fixed-period exclusion into a permanent exclusion. In exceptional cases, usually where further evidence has come to light, a further fixed-period exclusion may be issued to begin immediately after the first period ends; or a permanent exclusion may be issued to begin immediately after the end of the fixed period.

Process

The decision to exclude a pupil is not taken lightly and the Headteacher will:

- Ensure that a thorough investigation has been carried out.
- Consider all the evidence available to support the allegations.
- Allow and encourage the pupil to give their version of events. Where practical, the Headteacher will give the pupil an opportunity to present his or her case taking into account their age and understanding, before taking the decision to exclude.
- Take account of his/her legal duty of care when sending a pupil home following an exclusion. It may be necessary to make 'holding' arrangements until the pupil can be collected.
- Keep a written record of the actions taken including the signed statements of witnesses. Any exclusion of a pupil, even for short periods of time, will be formally recorded.
- Be confident that the procedures detailed in this policy and the statutory guidance have been carried out.
- Seek guidance from the Anthem Head of Legal, Head of HR and Education Director when appropriate.

Behaviour related to a protected characteristic

We will take care to ensure that a decision to exclude does not involve any kind of discrimination as defined by the Equality Act 2010. We will not discriminate against pupils on the basis of protected characteristics, such as disability or race.

The school will make reasonable adjustments for managing behaviour which is related to a pupil's disability. Where exclusion needs to be considered, the school will ensure that a pupil with a disability is able to present his or her case fully where the disability might hinder this.

We recognise that disruptive behaviour can be an indication of unmet needs. Where we have concerns about a pupil's behaviour, we will try to identify whether there are any causal factors and try to intervene

early in order to reduce the need for a subsequent exclusion. We will consider whether a multi-agency assessment that goes beyond a pupil's educational needs is required.

Lunchtime exclusions

A fixed-period exclusion can be for parts of the school day. For example, pupils whose behaviour at lunchtime is disruptive may be excluded from the school premises for the duration of the lunchtime period. In such cases the requirements in relation to exclusion, such as the Headteacher's duty to notify parents, still apply. Lunchtime exclusions are counted as half a school day for statistical purposes and in determining whether a Local Governing Body meeting is triggered.

Action following any exclusion

Informing parents

The Headteacher will immediately provide the following information to 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 Local Governing Body to meet to consider the reinstatement of a pupil, and that parents have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend.

The Headteacher will also notify parents by the end of the afternoon session on the day their child is excluded that for the first five 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 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.

The Trust has provided template letters available for the Headteacher to communicate this information to parents with further detail as to what must be included.

Informing the Local Governing Body, Education Director and local authority

The Headteacher will immediately notify the Local Governing Body, the Education Director and the local authority (LA) of:

- a permanent exclusion
- exclusions which would result in the pupil being excluded for more than five 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. All exclusions which relate to a child from a vulnerable group will be discussed with the Trust and Education Director prior to a decision being made.

For all other exclusions, the Headteacher will notify the Local Governing Body, the Education Director and LA once a term.

The Headteacher will make a termly report to the Education Director and Local Governing Body on all exclusions, covering:

- the number and type of exclusions
- the reasons, gender, ethnicity and age of pupils and whether they were already on Individual Education Programmes or Pastoral Support Programmes
- repeated exclusions and the school's response to them
- links with parents
- truancy punctuality and attendance figures
- follow-up action, including what has subsequently happened to permanently excluded pupils.

This information will also be provided to the Trust by posting on the relevant area of the Anthem hub.

Alternative education

For a fixed-period exclusion of more than five school days for a pupil of compulsory school age, the Local Governing Body has a legal duty to arrange suitable full-time education for the pupil to begin no later than the sixth day of the exclusion. However, the school and the Local Governing Body will attempt to start this provision as soon as possible. For a looked-after child, the school and the local authority will attempt to work together to arrange alternative provision from the first day following the exclusion.

Where a child receives consecutive fixed-period exclusions, these are regarded as a cumulative period of exclusion for the purposes of this duty. This means that if a child has more than five consecutive school days of exclusion, then education must be arranged for the sixth school day of exclusion, regardless of whether this is as a result of one fixed-period or more than one fixed-period exclusion.

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

For permanent exclusions, the pupil's home LA has responsibility for arranging suitable full-time education for the pupil.

Reintegration meeting

All students returning from a fixed-term exclusion are required to attend a reintegration meeting, accompanied by a parent. This meeting will seek to establish practical ways in which further exclusion can be avoided and behaviour modified to acceptable standards in partnership between student, parent and school.

Considering the reinstatement of a pupil

The Local Governing Body 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 Local Governing Body will consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion if the pupil would be excluded from school for more than five school days, but less than 15, in a single term.

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

The Local Governing Body has established a discipline committee to which it delegates its functions in respect of exclusions. (Hereafter referred to as 'the committee'). The committee consists of at least three Local Governors.

The committee can either:

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

In reaching a decision, committee 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 committee will notify, in writing, the headteacher, parents and the LA of its decision, along with reasons for its decision, without delay.

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

- The fact that it is permanent.
- Notice of parents' right to ask for the decision to be reviewed by an independent review panel, and:
 - the date by which an application for an independent review must be made
 - the name and address to whom an application for a review should be submitted
 - that any application should set out the grounds on which it is being made and that, where appropriate, reference to how the pupil's SEN are considered to be relevant to the exclusion

- that, regardless of whether the excluded pupil has recognised SEN, parents have a right to require the school to appoint a SEN expert to attend the review
- details of the role of the SEN expert and that there would be no cost to parents for this appointment
- that parents must make clear if they wish for 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.
- 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 six months of the date on which the discrimination is alleged to have taken place.
- Availability of free and impartial advice.

The committee should set out the reasons for its decision in sufficient detail to enable all parties to understand why the decision was made. The Trust has provided a template letter to assist Local Governors in communicating all the required information to parents.

Independent review panels

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

If parents apply for an independent review, the Local Governing Body will arrange for an independent panel to review the decision of the Local Governing Body not to reinstate a permanently excluded pupil. The Trust recommends that schools convene independent review panels and a clerking service via a Local Authority or from Clerks Associates (www.clerksassociates.co.uk 0208 920 366).

A panel of three or five members will be constituted with representatives from each of the categories below. Where a five-member panel is constituted, two members will come from the school governor category and two members will come from the headteacher category.

- A lay member to chair the panel who has not worked in any school in a paid capacity, disregarding any experience as a school governor or volunteer.
- School governors who have served as a governor for at least 12 consecutive months in the past five years, provided they have not been teachers or headteachers during this time.
- Headteachers or individuals who have been a headteacher within the past five years.

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

- Are a member/director of the Trust or Local Governing Body of the excluding school.
- Are the Headteacher of the excluding school or have held this position in the past five years.
- Are an employee of the Trust, or the Local Governing Body, 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 Governing Body, 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 past two years.

A clerk will be appointed to the panel.

The independent panel will decide one of the following:

- Uphold the committee's decision
- Recommend that the Local Governing Body reconsiders reinstatement
- Quash the committee's decision and direct that the Local Governing Body reconsider reinstatement (only when the decision is judged to be flawed)

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

School registers

A pupil's name will be removed from the school admissions register if:

- 15 school days have passed since the parents were notified of the committee'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 Local Governing Body 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.