



---

Academies Trust

# Exclusions Policy

*(applicable to all academies in the Trust except Connell Co-op College)*

Approved by Trust Board on: 14 July 2021

Applicable from: 1 September 2021

Next review date: September 2022

## 1. Aims

Our Trust aims to ensure that:

- exclusion is only ever a last resort
- the exclusions process is applied fairly and consistently
- the exclusions process is understood by governors, staff, parents and pupils
- pupils in school are safe and happy
- pupils do not become NEET (not in education, employment or training)

## 2. Legislation and Statutory Guidance

This policy is based on statutory guidance from the Department for Education: [Exclusion from maintained schools, academies and pupil referral units \(PRUs\) in England](#) ('the statutory guidance').

It is also based on the following:

- Section 51A of the [Education Act 2002](#)
- [The School Discipline \(Pupil Exclusions and Reviews\) \(England\) Regulations 2012](#)
- Sections 64-68 of the [School Standards and Framework Act 1998](#)
- 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

Only the headteacher/principal, or head of school, can exclude a pupil. A permanent exclusion will only be made as a last resort.

The behaviour of a pupil both inside and outside school can be considered grounds for an exclusion.

A fixed-period exclusion can also be for parts of the school day. For example, if a pupil's behaviour at lunchtime is disruptive, they may be excluded from the school premises for the duration of the lunchtime period.

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

"...the practice of removing a pupil 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 pupil.”

We are 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 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
- ensure an appropriate investigation has been conducted including where appropriate and accessible the use of the school’s CCTV facility or any video footage which can be viewed by the pupil, parent/carer, school staff as appropriate, the police, governors/IEB members and any Independent Review Panel members, in line with the provisions of the General Data Protection regulation and with advice from the Trust’s Data Protection Officer.
- allow the pupil to give their version of events, where practical
- consider if the pupil has special educational needs (SEN)

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 academy will make reasonable adjustments for managing behaviour which is related to a pupil’s disability. Where exclusion needs to be considered, the academy will ensure that a pupil with a disability is able to present his or her case 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.

#### 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 governing board to meet to consider the reinstatement of a pupil, that the pupil and parents have the right to attend the meeting, be represented at the meeting (at their own expense) and to bring a friend.

The headteacher will also notify parents by the end of the afternoon session on the day their child is excluded that for the first 5 school days of an exclusion, or until the start date of any alternative provision where this is earlier, parents are legally required to ensure that their child is not present in a public place during school hours without a good reason. Parents may be given a fixed penalty notice or prosecuted if they fail to do this.

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

- The start date for any provision of full-time education that has been arranged
- The start and finish times of any such provision, including the times for morning and afternoon sessions, where relevant
- The address at which the provision will take place
- Any information required by the pupil to identify the person they should report to on the first day.

Where this information on alternative provision is not reasonably ascertainable by the end of the afternoon session, it may be provided in a subsequent notice, but it will be provided no later than 48 hours before the provision is due to start. The only exception to this is where alternative provision is to be provided before the sixth day of an exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent.

#### Informing the governing board and local authority (LA)

The headteacher will immediately notify the governing board and the local authority 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
- (In the case of secondary academies) 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 governing board and LA once a term.

## 5.2 The governing board

Responsibilities regarding exclusions will be undertaken by an exclusions panel comprising either 3 Co-operative Academies Trust governors or 2 Co-operative Academies Trust governors plus one of the Trust's Chief Education Officers. The governors will not necessarily be drawn from the academy in which the exclusion has occurred. If a Chief Education Officer sits on the panel this will not be the Chief Education Officer for the region in which the academy making the exclusion lies.

The panel has a duty to consider the reinstatement of an excluded pupil (see section 6).

## 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. Where the exclusion relates to a looked after child, the academy will work with the local authority to arrange alternative provision from the first day following the exclusion.

## 6. Considering the reinstatement of a pupil

The exclusions panel will consider the reinstatement of an excluded pupil within 15 school days of receiving the notice of the exclusion if:

- The exclusion is permanent
- It is a fixed-term exclusion which would bring the pupil's total number of school days of exclusion to more than 15 in a term
- It would result in a pupil missing a public examination.

If requested to do so by parents, the exclusions 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 exclusions panel will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the chair of the Trust Board (or the vice-chair where the chair is unable to make this consideration) will consider the exclusion independently and decide whether or not to reinstate the pupil.

The exclusions 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 exclusions panel will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the headteacher followed their legal duties. The panel will decide whether or not a fact is true 'on the balance of probabilities', which differs from the criminal standard of 'beyond reasonable doubt'.

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 exclusions panel will notify, in writing, the headteacher, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the exclusions 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 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 Trust to appoint an SEN expert to attend the review
  - Details of the role of the SEN expert and that there would be no cost to parents for this appointment
  - That parents must make clear if they wish for an SEN expert to be appointed in any application for a review

- That parents may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents may also bring a friend to the review
- That if parents believe that the exclusion has occurred as a result of discrimination, they may make a claim under the Equality Act 2010 to the first-tier tribunal (special educational needs and disability), in the case of disability discrimination, or the county court, in the case of other forms of discrimination. A claim of discrimination made under these routes should be lodged within 6 months of the date on which the discrimination is alleged to have taken place

## 7. An independent review

If parents apply for an independent review, the Trust will arrange for an independent panel to review the decision of the exclusions 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 exclusions 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 governor category and 2 members will come from the headteacher category.

- A lay member to chair the panel who has not worked in any school in a paid capacity, disregarding any experience as a school governor or volunteer
- School governors who have served as a governor for at least 12 consecutive months in the last 5 years, provided they have not been teachers or headteachers during this time
- Headteachers or individuals who have been a headteacher within the last 5 years

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

- Are a member or a trustee of the Co-operative Academies Trust, or a governor of any of the Trust's academies.
- Are the headteacher of the excluding school, or have held this position in the last 5 years
- Are an employee of the Trust
- Have, or at any time have had, any connection with the Trust, academy, 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 (the contents of this training is stipulated in the statutory guidance).

A clerk will be appointed to the panel.

The independent panel will:

- Uphold the governing board's decision
- Recommend that the governing board reconsiders reinstatement  
or
- Quash the governing board's decision and direct that they reconsider reinstatement (only when the decision is judged to be flawed).

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

## 8. School registers

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

- 15 school days have passed since the parents were notified of the exclusion panel's decision to not reinstate the pupil and no application has been made for an independent review panel, or
- The parents have stated in writing that they will not be applying for an independent review panel

Where an application for an independent review has been made, the governing board will wait until that review has concluded before removing a pupil's name from the register.

Where alternative provision has been made for an excluded pupil and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.

Where excluded pupils are not attending alternative provision, code E (absent) will be used.

Appendix A

Summary of the Trust's process in relation to Permanent Exclusions (PEX)

