



# LEARNING OPPORTUNITIES EXCLUSION POLICY

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The Exclusion Policy has been written and approved by a team with a range of experience and will be reviewed annually.

Previous Review: December 2020

Review Date: December 2021

## **INTRODUCTION**

In reviewing this policy Learning Opportunities have taken account of the Department for Education ('DfE') revised statutory guidance on exclusions for maintained schools, academies and pupil referral units in England (September 2017 - updated in October 2020 to reflect changes due to Covid-19).

As an Independent Special School Learning Opportunities has no statutory duty to apply DfE procedures. However, we believe it forms the basis of good practice.

This policy provides an overview of the practices which inform our School's use of exclusion as a sanction or consequence. It is underpinned by the shared commitment of all members of the school to ensure the safety and well-being of all students and to maintain an appropriate educational environment in which all can learn and succeed.

It is the policy of Learning Opportunities to try to deal with all behavioural issues in an active, positive way, employing a wide range of strategies, including those specifically designed to avoid such issues reaching the point of exclusion. All students at the school have special needs and therefore the decision to exclude is taken with the utmost reluctance and when all alternative strategies have been tried and have failed.

Early intervention to address underlying causes of disruptive behaviour include an assessment of whether appropriate provision is in place to support individual needs. Every practicable means of maintaining placements are explored, this includes seeking advice from the LA and other professionals. Where necessary Learning Opportunities will arrange a multi-agency meeting or emergency EHCP review.

The guidance within this policy is not exhaustive and judgments will take account of the circumstances of individual cases. There is a distinction between exclusion as a sanction and sending a student home if they are emotionally unable to cope with school on a particular day.

## **LEGISLATION**

Only the head teacher of a school can exclude a pupil and this must be on disciplinary grounds. A pupil may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or permanently. A fixed period exclusion does not have to be for a continuous period.

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

- The Education Act 2002 (As amended by The Education Act 2011)
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 and The School Discipline (England) (Coronavirus) (Pupil Exclusions and Reviews) (Amendment) Regulations 2020
- The Education and Inspections Act 2006
- The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007 (As amended 2014)
- The European Convention on Human Rights (EHCR)
- The Equality Act 2010

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

- Exclusion from maintained schools, academies and pupil referral units in England Statutory guidance for those with legal responsibilities in relation to exclusion (September 2017)
- DfE (2016) 'Behaviour and discipline in schools'
- DfE (2015) 'Special educational needs and disability code of practice: 0 to 25 years'

## **MANAGING BEHAVIOUR**

We acknowledge that the behaviour of students at risk of exclusion is sometimes driven by complex combinations of social, emotional and mental health problems.

Systems are in place to intervene as early as possible to address emerging behaviour problems. Measures include:

- working collaboratively with parents / carers and other professionals;
- review of personalised learning programmes
- curriculum alternatives at Key Stage 4, including attendance at a further education college or another form of alternative provision;
- review of EHCPs
- referral to a specific support service, such as CYPMHS

We remain committed to reducing the number of incidents leading to potential exclusions by promoting a positive atmosphere of mutual respect and discipline within the school. Exclusions are now rare.

## **KEY PRINCIPLES**

Learning Opportunities recognises that exclusion is a serious matter and as such decisions, with respect to exclusions will not be taken lightly but only after careful consideration of the circumstances.

Students will only be excluded after all the relevant factors have been considered and when the Headteacher is satisfied that there is no alternative. The Headteacher will ensure that:

- a thorough investigation has been carried out;
- all the evidence has been considered;
- where appropriate, statements have been taken from witnesses;
- the student(s) had the opportunity to give his/her version of events.

The nature of the period of exclusion shall be proportionate having regard to the incident and other circumstances leading up to it.

Learning Opportunities will take reasonable steps to set and mark work for students during the first five school days of exclusion; and wherever possible alternative provision will be arranged from the sixth day.

## **THE DECISION TO EXCLUDE**

A decision to exclude a student for a fixed period will only be taken in response to a breach or breaches of the school's behaviour policy, including persistent disruptive behaviour, where lesser sanctions are considered inappropriate. Individual fixed period exclusions will be for the shortest time necessary. Learning Opportunities recognises that exclusions of more than a day or two are often ineffective and make it more difficult for the student to reintegrate into the school afterwards.

There are certain circumstances in which individual students may be required to leave the school site, for example where:

- there is sufficient evidence that allowing the student to remain in school would seriously harm the education or welfare of themselves or others in the school. In these circumstances the student may be excluded from school for a fixed period or permanently.
- a student is accused of a serious criminal offence but the offence took place outside the school's jurisdiction. In these circumstances the head teacher may decide that it is in the interests of the individual concerned and of the school community as a whole for that student to be educated off site for a certain period, subject to review at regular intervals. This is not an exclusion.

### Looked after children

Learning Opportunities will try every practicable means, as we would with any student, to maintain the placement of Looked After students. Social Services will be involved at the earliest opportunity in working with the school to avoid the need to exclude the student.

Where exclusion is necessary the Head-teacher and other relevant professionals will use the time effectively to consider strategies for addressing the student's difficulties, and to examine what additional support may be required to ensure they are successfully reintegrated back into the school.

### Police involvement and parallel criminal proceedings

When there is the possibility of criminal proceedings, in considering whether exclusion is a proportionate response the head teacher will apply the normal principles having regard to the school's behaviour policy.

### DUTY TO INFORM THE PROPRIETOR & LA

The Headteacher will inform the Proprietor and LA, without delay, of the following:

- Any permanent exclusions
- 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

### PROCEDURE FOR FIXED PERIOD EXCLUSIONS

All exclusions will be treated in the strictest confidence. Only those who need to know the details of an exclusion will be informed of them.

- The Headteacher will decide if exclusion is appropriate and the length of the fixed term exclusion.
- Parents / carers, where applicable social worker, and LA will be contacted immediately once a decision has been made to exclude a student. They will be given the reason for the exclusion and the start / end dates of the exclusion.
- School work will be provided to cover the period of a fixed term exclusion of more than ½ day.
- On a student's return to the school following a fixed term exclusion, the parents / carers may be asked to accompany their child to meet with the Headteacher or a senior member of staff.
- During the course of a fixed term exclusion the student is not allowed on the school premises.

- For any fixed term exclusion that exceeds 6 consecutive days alternative educational provision will be arranged, where it is safe and appropriate to do so. This means that education will be arranged from the sixth day of exclusion, regardless of whether this is as a result of one fixed period or more.

A fixed-term exclusion may be imposed ‘pending investigation’ and additional days added if required, where applicable this will be recorded as one continuous period.

Fixed term exclusions will not exceed, when aggregated, a total of 45 school days in any one academic year.

During the period of exclusion the parents / carers of the excluded student must ensure that he or she is not present in a public place during normal school hours for days 1-5 of exclusion without reasonable justification. This requirement applies whether or not the student is in the company of the parent / carer, to do so would be committing an offence for which they may be prosecuted or given a fixed penalty notice.

### **PROCEDURE FOR PERMANENT EXCLUSIONS**

Learning Opportunities acknowledge that the decision to exclude a student permanently is a serious one. There are two main types of situation in which permanent exclusion may be considered:

- The first is a final, formal step in a concerted process for dealing with unacceptable behaviour following the use of a wide range of other strategies (that may also include involvement of other professional agencies) which have been used over time without success. It is an acknowledgement that all available strategies have been exhausted.
- The second is where there are circumstances of extreme behaviour causing a serious risk to the student concerned, adults or other students.

Examples of those exceptional circumstances where, in the head teacher’s judgement, it is appropriate to permanently exclude a student for a first or “one-off” offence might include:

- serious actual or threatened violence against another student or a member of staff;
- sexual abuse or assault
- supplying an illegal drug
- carrying an offensive weapon
- arson

This list is not exhaustive but indicates the degree of severity of offence that might warrant a permanent exclusion for a first or “one-off” offence. Learning Opportunities will inform the police where it is believed that a criminal offence may have taken place. Consideration will also be given to the appropriateness of referrals to other agencies, e.g. in relation to child protection, as appropriate to the circumstances of the case.

Exclusion will not be imposed instantly unless there is an immediate threat to the safety of others or the student concerned. Before deciding whether to exclude a student permanently the Headteacher will ensure that appropriate investigations are carried out.

The parents / carers and where appropriate social worker will be informed immediately and may be asked to come into the school to meet with the Headteacher.

A formal letter will be sent in the post providing details of the reason for the permanent exclusion and outlining their right to appeal to the Proprietor, including contact details.

## APPEAL MEETING

Parents/carers and / or social worker, the headteacher and, where applicable, a member of the LA, will be invited to attend the appeal meeting and will be able to make representations.

Any meeting to consider permanent exclusion will be arranged at a date and time convenient for all parties, usually within 15 days of the Proprietor receiving notice of the exclusion.

When considering exclusions, the Proprietor will:

- 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.
- allow students and parents/carers to be accompanied by a person of their choice at the meeting.
- consider what reasonable adjustments need to be made to support the attendance and contribution of parties at the meeting.
- where appropriate identify the steps needed to enable and encourage the excluded student to attend the meeting and speak on his/her behalf, or how he/she may contribute personal views by other means if attendance is not possible;
- consider the interests and circumstances of the excluded student, including the grounds for exclusion.

### Reaching a decision

In order to reach a decision, the Proprietor will:

- ensure that minutes are taken of the meeting as a record of the evidence that was considered.
- consider whether the exclusion of the student was lawful, proportionate and procedural, taking into account the headteacher's legal duties.
- 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 decline to reinstate the student.

Following the appeal meeting the Proprietor will either:

- Reinstate the student immediately, or on a specified date.
- Decline to reinstate the student.

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

### Notification of considered exclusions

The Proprietor will notify the parents/carers of the excluded student, the headteacher and the LA of their decision following the consideration of an exclusion, in writing and without delay.

If the Proprietor declines to reinstate the student, they will notify the parents/carers:

- of their right for the decision to be reviewed by an independent review.

- the date by which an application for review must be made.
- the name and address of whom the review application should be submitted.
- the need to detail the grounds on which the application is being made.
- their right to require the Proprietor to ensure a SEN specialist attends the review, and that they are required to make it clear if they wish for an SEN expert to attend the review.
- that they may appoint someone at their own expense to make representations to the panel.

## INDEPENDENT REVIEW

Parents/carers and where appropriate social worker are able to request an independent panel review even if they did not make a case to, or attend, the Proprietors initial consideration of the exclusion. They are required to submit their applications within:

- 15 school days of the Proprietors notification of their decision.

Any application made outside of this timeframe will not be reviewed.

None of the Independent Review members will have been involved in the incident and will be impartial. They do not have the power to direct a Proprietor to reinstate an excluded student. However, where it is felt that The Proprietor's decision is flawed, it can direct a Proprietor to reconsider their decision.

The Independent Review will take place within 15 school days of the date of the request. In exceptional circumstances, and at the discretion of the review members, this period may be extended. The independent review members will do everything possible to establish an atmosphere of informality where all parties can present their case effectively.

The Independent Review Panel's decision is final.

### The duties of the Independent Review

The independent review will be undertaken by an independent consultant and where requested an SEN specialist.

Their role is to review the Proprietors decision to decline to reinstate the student. In reviewing the decision, they 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.

Following the review, the independent consultant can decide to:

- Uphold the decision.
- Recommend that the Proprietor reconsiders their decision; or
- Quash the decision and direct that the Proprietor reconsider reinstatement.

The independent consultant will communicate their decision to all parties by the end of the 2<sup>nd</sup> school day following the review meeting. If outside term time, on the 2<sup>nd</sup> working day.

### Reconsidering exclusions following a review

Where the Proprietor is directed to review their exclusion decision, they will do so conscientiously within 10 school days of being given notice. The proprietor will take a fresh look at the question of reinstating the student, in light of the findings of the independent review.

Further representations from other parties will not be sought. A record of the evidence considered will be taken and made available to all parties on request.

Following a reconsideration, the Proprietor will notify the parents/carers and / or social worker where appropriate, the headteacher and, where necessary, the LA, of their reconsidered decision.

### **MARKING ATTENDANCE REGISTERS**

Whilst an excluded student's name remains on a school's admissions register, the student will be marked using the appropriate attendance code. Where alternative provision has been made and the student attends it, an appropriate attendance code, such as Code B (if the provision is an approved educational activity that does not involve the student being registered at any other school), will be used. Where students are not attending alternative provision, they will be marked absent using Code E.

### **REMOVING STUDENTS FROM THE SCHOOL REGISTER**

The Head Teacher will ensure that a student's name is removed from the school admissions register if:

- 15 school days have passed since the parents / carers were notified of the Proprietors decision to not reinstate the student and no application has been made for an independent review or
- the parents / carers have stated in writing that they will not be applying for an independent review.

Where an application for an independent review has been made within 15 school days, the school will wait until the review has been determined, or abandoned, and until the Proprietor has completed any reconsideration that the review has recommended or directed it to carry out, before removing a student's name from the register. Where a student's name is deleted from the school admissions register because of a permanent exclusion the school will inform the local authority.

### **MONITORING & REVIEW**

This policy will be reviewed on an annual basis by the headteacher in conjunction with the Proprietor. All members of staff are required to familiarise themselves with this policy as part of their induction programme.