



**GREAT
HEIGHTS**
ACADEMY TRUST

Achieving excellence together

Suspension and Permanent Exclusion Policy

Approved by:	Trust Board		
Responsible department:	Trust Central Team		
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Contents

1. Aims	3
2. Legislation and statutory guidance	3
3. Definitions	4
4. Roles and responsibilities	4
6. Independent review	10
7. School registers	11
8. Returning from a suspension	12
9. Remote access to meetings	13
10. Monitoring arrangements	13
11. Links with other policies	14
Appendix 1: independent review panel training	15
Appendix 2: Checklist for Principals and Governors	16
A summary of the Governing Body’s duties to review the Principal’s exclusion decision	21

1. Aims

We are committed to following all statutory exclusions procedures to ensure that every pupil receives an education in a safe and caring environment.

Our Trust aims to:

- Ensure that the exclusions process is applied fairly and consistently.
- Help the Trust Board, governors, staff, parents and pupils understand the exclusions process.
- Ensure that pupils in school are safe and happy.
- Prevent pupils from becoming NEET (not in education, employment or training).
- Ensure all suspensions and permanent exclusions are carried out lawfully.

A note on off-rolling

'Off-rolling' is a form of gaming and occurs where a school makes the decision, in the interests of the school and not the pupil, to:

- Remove a pupil from the school roll without a formal, permanent exclusion, or
- Encourage a parent/carer to remove their child from the school roll, or
- Encourage a sixth-form student not to continue with their course of study, or
- Retain a pupil on the school roll but does not allow them to attend the school normally, without a formal permanent exclusion or suspension

Accordingly, we will not suspend or exclude a pupil unlawfully by telling or forcing them to leave, or not allowing them to attend school without following the statutory procedure contained in the [School Discipline \(Pupil Exclusions and Reviews\) \(England\) Regulations 2012](#), or formally recording the event.

Any suspension or exclusion will be made on disciplinary grounds, and will not be made:

- Because a pupil has special educational needs and/or a disability (SEND) that the school feels unable to support, or
- Due to a pupil's poor academic performance, or
- Because the pupil hasn't met a specific condition, such as attending a reintegration meeting

If any pupil is suspended or excluded on the above grounds, this will also be considered as 'off-rolling'.

2. Legislation and statutory guidance

This policy is based on statutory guidance from the Department for Education (DfE): [Suspension and permanent exclusion from maintained schools, academies and pupil referral units in England, including pupil movement - from September 2023](#).

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

- Section 51a of the Education Act 2002, as amended by the Education Act 2011
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012

In addition, the policy is based on:

- Part 7, chapter 2 of the [Education and Inspections Act 2006](#), which sets out 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](#)

- [The Equality Act 2010](#)
- [Children and Families Act 2014](#)
- The [School Inspection Handbook](#), which defines 'off-rolling'

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

3. Definitions

Suspension – when a pupil is removed from the school for a fixed period. This was previously referred to as a 'fixed-term exclusion'.

Permanent exclusion – when a pupil is removed from the school permanently and taken off the school roll. This is sometimes referred to as an 'exclusion'.

Off-site direction – when a Governing Body of a school requires a pupil to attend another education setting temporarily, to improve their behaviour.

Parent/carer – any person who has parental responsibility and any person who has care of the child.

Managed move – when a pupil is transferred to another school permanently. All parties, including parents/carers and the admission authority for the new school, should consent before a managed move occurs.

4. Roles and responsibilities

4.1 The Principal

Deciding whether to suspend or exclude

Only the Principal, or acting Principal, can suspend or permanently exclude a pupil from school on disciplinary grounds. The decision can be made in respect of behaviour inside or outside of school. The Principal will only use permanent exclusion as a last resort.

A decision to suspend a pupil will be taken only:

- In accordance with the school's behaviour policy
- To provide a clear signal of what is unacceptable behaviour
- To show a pupil that their current behaviour is putting them at risk of permanent exclusion

Where suspensions have become a regular occurrence, the Principal will consider whether suspensions alone are an effective sanction and whether additional strategies need to be put in place to address behaviour issues.

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 suspend or exclude a pupil, the Principal will:

- Consider all the relevant facts and evidence on the balance of probabilities, including whether the incident(s) leading to the exclusion were provoked
- Allow the pupil to give their version of events
- Consider whether the pupil has special educational needs (SEN)

- Consider whether the pupil is especially vulnerable (e.g. the pupil has a social worker, or is a looked-after child (LAC))
- Consider whether all alternative solutions have been explored, such as:
 - For suspensions, detentions or other sanctions provided for in the behaviour policy
 - For exclusions, off-site direction or managed moves

The Principal will consider the views of the pupil, in light of their age and understanding, before deciding to suspend or exclude, unless it would not be appropriate to do so.

Pupils who need support to express their views will be allowed to have their views expressed through an advocate, such as a parent/carer or social worker.

The Principal will not reach their decision until they have heard from the pupil, and will inform the pupil of how their views were taken into account when making the decision.

Informing parents/carers (or the pupil where they are 18 or older)

If a pupil is at risk of suspension or exclusion, the Principal will inform the parents/carers/pupil as early as possible, in order to work together to consider what factors may be affecting the pupil's behaviour, and what further support can be put in place to improve the behaviour.

If the Principal decides to suspend or exclude a pupil, the parents/carers/pupil will be informed, in person or by telephone, of the period of the suspension or exclusion and the reason(s) for it, without delay.

The parents/carers/pupil will also be provided with the following information in writing, without delay:

- The reason(s) for the suspension or permanent exclusion
- The length of the suspension or, for a permanent exclusion, the fact that it is permanent
- Information about the parents/carers'/pupil's right to make representations about the suspension or permanent exclusion to the Governing Body and, where the pupil is attending alongside parents/carers, how they may be involved in this
- How any representations should be made
- Where there is a legal requirement for the Governing Body to hold a meeting to consider the reinstatement of a pupil, and that parents/carers/the pupil have a right to attend the meeting, be represented at the meeting (at their own expense) and bring a friend
- That parents/carers/the pupil have the right to request that the meetings be held remotely, and how and to whom they should make this request

If the pupil is of compulsory school age, the Principal will also notify parents/carers without delay and by the end of the afternoon session on the first day their child is suspended or permanently excluded, that:

- For the first 5 school days of an exclusion (or until the start date of any alternative provision or the end of the suspension, where this is earlier), the parents/carers are legally required to ensure that their child is not present in a public place during school hours without a good reason. This will include specifying on which days this duty applies
- Parents/carers 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, if possible:

- 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 the pupil needs in order to identify the person they should report to on the first day

If the Principal does not have all the information about the alternative provision arrangements by the end of the afternoon session on the first day of the suspension or permanent exclusion, they can provide the information at a later date, without delay and 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 a suspension or permanent exclusion, in which case the school reserves the right to provide the information with less than 48 hours' notice, with parents/carers' consent.

If the Principal cancels the suspension or permanent exclusion, they will notify the parents/carers/pupil without delay, and provide a reason for the cancellation.

Informing the Governing Body & Trust Chief Operating Officer

The Principal will, without delay, notify the Governing Body & COO of:

- Any permanent exclusion, including when a suspension is followed by a decision to permanently exclude a pupil
- Any suspension or permanent exclusion that would result in the pupil being suspended or permanently excluded for a total of more than 5 school days (or more than 10 lunchtimes) in a term
- Any suspension or permanent exclusion that would result in the pupil missing a National Curriculum test or public exam
- Any suspension or permanent exclusion that has been cancelled, including the reason for the cancellation

Informing the local authority (LA)

The Principal will notify the LA of all suspensions and permanent exclusions without delay, regardless of the length of a suspension.

The notification will include:

- The reason(s) for the suspension or permanent exclusion
- The length of a suspension or, for a permanent exclusion, the fact that it is permanent

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

The Principal must notify the LA without delay of any cancelled exclusions, including the reason the exclusion was cancelled.

Informing the pupil's social worker and/or virtual school head (VSH)

If a:

- **Pupil with a social worker** is at risk of suspension or permanent exclusion, the Principal will inform **the social worker** as early as possible
- **Pupil who is a looked-after child (LAC)** is at risk of suspension or exclusion, the Principal will inform **the VSH** as early as possible

This is in order to work together to consider what factors may be affecting the pupil's behaviour, and what further support can be put in place to improve the behaviour.

If the Principal decides to suspend or permanently exclude a pupil with a social worker/a pupil who is looked after, they will inform the pupil's social worker/the VSH, as appropriate, without delay, that:

- They have decided to suspend or permanently exclude the pupil

- The reason(s) for the decision
- The length of the suspension or, for a permanent exclusion, the fact that it is permanent
- The suspension or permanent exclusion affects the pupil's ability to sit a National Curriculum test or public exam (where relevant)
- They have decided to cancel a suspension or permanent exclusion, and why (where relevant)

The social worker/VSH will be invited to any meeting of the Governing Body about the suspension or permanent exclusion. This is so they can provide advice on how the pupil's background and/or circumstances may have influenced the circumstances of their suspension or permanent exclusion. The social worker should also help ensure safeguarding needs and risks, and the pupil's welfare are taken into account.

Providing education during the first 5 days of a suspension or permanent exclusion

During the first 5 days of a suspension, if the pupil is not attending alternative (AP) provision, the Principal will take steps to ensure that achievable and accessible work is set and marked for the pupil. Online pathways such as Google Classroom/Oak Academy/Microsoft Teams may be used for this. If the pupil has a special educational need or disability, the Principal will make sure that reasonable adjustments are made to the provision where necessary.

If the pupil is looked after or if they have a social worker, the school will work with the LA to arrange AP from the first day following the suspension or permanent exclusion. Where this isn't possible, the school will take reasonable steps to set and mark work for the pupil, including the use of online pathways.

4.2 The governing body

Considering suspensions and permanent exclusions

The governing body has a duty to consider parents/carers'/the pupil's (if they are 18 or older) representations about a suspension or permanent exclusion. It has a duty to consider the reinstatement of a suspended or permanently excluded pupil (see sections 5 and 6) in certain circumstances.

Within 14 days of receiving a request, the Governing Body will provide the secretary of state with information about any suspensions or exclusions within the last 12 months.

For any suspension of more than 5 school days, the Governing Body will arrange suitable full-time education for the pupil. This provision will begin no later than the sixth day of the suspension.

In secondary school the Governing Body does not have to arrange such provision for pupils in their final year of compulsory education who do not have any further public exams to sit.

Monitoring and analysing suspensions and exclusions data

The governing body will review, challenge and evaluate the data on the school's use of suspension, exclusion, off-site direction to alternative provision, and managed moves.

The governing body will consider:

- How effectively and consistently the school's behaviour policy is being implemented
- The school register and absence codes
- Instances where pupils receive repeat suspensions
- Interventions in place to support pupils at risk of suspension or permanent exclusion
- Any variations in the rolling average of permanent exclusions, to understand why this is happening, and to make sure they are only used when necessary

- Timing of moves and permanent exclusions, and whether there are any patterns, including any indications that may highlight where policies or support are not working
- The characteristics of suspended and permanently excluded pupils, and why this is taking place
- Whether the placements of pupils directed off-site into alternative provision are reviewed at sufficient intervals to assure that the education is achieving its objectives and that pupils are benefiting from it
- The cost implications of directing pupils off-site

4.3 The local authority (LA)

For permanent exclusions, the LA will arrange suitable full-time education to begin no later than the sixth school day after the first day of the exclusion.

For pupils who are looked after or have social workers, the LA and the school will work together to arrange suitable full-time education to begin from the first day of the exclusion.

5. Considering the reinstatements of a pupil

The governing body will consider and decide on the reinstatement of a suspended or permanently excluded pupil within 15 school days of receiving the notice of the suspension or exclusion if:

- The exclusion is permanent
- It is a suspension that would bring the pupil's total number of days out of school to more than 15 in a term; or
- It would result in a pupil missing a public exam or National Curriculum test

Where the pupil has been suspended, and the suspension does not bring the pupil's total number of days of suspension to more than 5 in a term, the governing body must consider any representations made by parents/carers/the pupil (if they are 18 or older). However, it is not required to arrange a meeting with parents/carers/the pupil and it cannot direct the Principal to reinstate the pupil.

Where the pupil has been suspended for more than 5, but not more than 15 school days, in a single term, and the parents/carers/pupil make representations to the board, the governing body will consider and decide on the reinstatement of a suspended pupil within 50 school days of receiving notice of the suspension. If the parents/carers/pupil do not make representations, the board is not required to meet and it cannot direct the Principal to reinstate the pupil.

Where a suspension or permanent exclusion would result in a pupil missing a public exam or National Curriculum test, the governing body will, as far as reasonably practicable, consider and decide on the reinstatement of the pupil before the date of the exam or test. If this is not practicable, the governing body may consider the suspension or permanent exclusion and decide whether or not to reinstate the pupil.

The following parties will be invited to a meeting of the governing body and allowed to make representations or share information:

- Parents/carers, or the pupil if they are 18 or older (and, where requested, a representative or friend)
- The pupil, if they are aged 17 or younger and it would be appropriate to their age and understanding (and, where requested, a representative or friend)
- The Principal
- The pupil's social worker, if they have one
- The VSH, if the pupil is looked after

Governing body meetings can be held remotely at the request of parents/carers, or pupils if they are 18 or older. See section 9 for more details on remote access to meetings.

The governing body will try to arrange the meeting within the statutory time limits set out above and must try to have it at a time that suits all relevant parties. However, its decision will not be invalid simply on the grounds that it was not made within these time limits.

The Governing body can either:

- Decline to reinstate the pupil, or
- Direct the reinstatement of the pupil immediately, or on a particular date (except in cases where the board cannot do this – see earlier in this section)

In reaching a decision, the governing body will consider:

- Whether the decision to suspend or permanently exclude was lawful, reasonable, and procedurally fair
- Whether the Principal followed their legal duties
- The welfare and safeguarding of the pupil and their peers
- Any evidence that was presented to the Governing Body

They will decide whether or not a fact is true 'on the balance of probabilities'.

The clerk will be present when the decision is made.

Minutes will be taken of the meeting, and a record kept of the evidence that was considered. The outcome will also be recorded on the pupil's educational record, and copies of relevant papers will be kept with this record.

The Governing body will notify, in writing, the following stakeholders of its decision, along with reasons for its decision, without delay:

- The parents/carers, or the pupil if they are 18 or older
- The Principal
- The pupil's social worker, if they have one
- The VSH, if the pupil is looked after
- The local authority
- The pupil's home authority, if it differs from the school's

Where an exclusion is permanent and the governing body has decided not to reinstate the pupil, the notification of decision will also include the following:

- The fact that it is a permanent exclusion
- Notice of parents/carers'/the pupil's (if they are 18 or older) right to ask for the decision to be reviewed by an independent review panel
- The date by which an application for an independent review must be made (15 school days from the date on which notice in writing of the Governing Body's decision is given to parents/carers)
- The name and address to which an application for a review and any written evidence should be submitted
- That any application should set out the grounds on which it is being made and that, where appropriate, it should include reference to how the pupil's special educational needs (SEN) are considered to be relevant to the permanent exclusion
- That, regardless of whether the excluded pupil has recognised SEN, parents/carers have a right to require the Trust to appoint an SEN expert to advise the review panel
- Details of the role of the SEN expert and that there would be no cost to parents/carers for this appointment
- That parents/carers must make clear if they wish for an SEN expert to be appointed in any application for a review

- That parents/carers may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents/carers may also bring a friend to the review
- That, if parents/carers believe that the permanent exclusion has occurred as a result of unlawful 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. Also, that any 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

6. Independent review

If parents/carers/the pupil (if they are 18 or older) apply for an independent review within the legal timeframe, the Trust will, at their own expense, arrange for an independent panel to review the decision of the Governing Body 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/carers/pupil by the governing of its decision to not reinstate the pupil **or**, if after this time, within 15 school days of the final determination of a claim of discrimination under the Equality Act 2010 regarding the permanent exclusion. Any applications made outside of this timeframe will be rejected.

Independent reviews can be held remotely at the request of parents/carers/pupils. See section 9 for more details on remote access to meetings.

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 principal category. At all times during the review process there must be the required representation on the panel.

- 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
- Current or former 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 Principals during this time
- Principals or individuals who have been a Principal within the last 5 years

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

- Are a member or trustee of the Trust of the excluding school
- Are the Principal of the excluding school, or have held this position in the last 5 years
- Are an employee of the Trust, or the governing body, of the excluding school (unless they are employed as a Principal at another school)
- Have, or at any time have had, any connection with the Trust, school, Governing Body, parents/carers 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)

The panel must consider the interests and circumstances of the pupil, including the circumstances in which the pupil was permanently excluded, and have regard to the interests of other pupils and people working at the school.

Taking into account the pupil's age and understanding, the pupil or their parents/carers will be made aware of their right to attend and participate in the review meeting and the pupil should be enabled to make representations on their own behalf, should they desire to.

Where a SEN expert is present, the panel must seek and have regard to the SEN expert's view of how SEN may be relevant to the pupil's permanent exclusion.

Where a social worker is present, the panel must have regard to any representation made by the social worker of how the pupil's experiences, needs, safeguarding risks and/or welfare may be relevant to the pupil's permanent exclusion.

Where a VSH is present, the panel must have regard to any representation made by the social worker of how any of the child's background, education and safeguarding needs were considered by the Principal in the lead up to the permanent exclusion, or are relevant to the pupil's permanent exclusion.

Following its review, the independent panel will decide to do 1 of the following:

- Uphold the Governing Body's decision
- Recommend that the Governing Body reconsiders reinstatement
- Quash the Governing Body's decision and direct that they reconsider reinstatement (only if it judges that the decision was flawed)

New evidence may be presented, though the school cannot introduce new reasons for the permanent exclusion or the decision not to reinstate. The panel must disregard any new reasons that are introduced.

In deciding whether the decision was flawed, and therefore whether to quash the decision not to reinstate, the panel must only take account of the evidence that was available to the Governing Body at the time of making its decision. This includes any evidence that the panel considers would, or should, have been available to the Governing Body and that it ought to have considered if it had been acting reasonably.

If evidence is presented that the panel considers it is unreasonable to expect the Governing Body to have been aware of at the time of its decision, the panel can take account of the evidence when deciding whether to recommend that the Governing Body reconsider reinstatement.

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

Once the panel has reached its decision, the panel will notify all parties in writing without delay.

This notification will include:

- The panel's decision and the reasons for it
- Where relevant, details of any financial readjustment or payment to be made if the Governing Body does not subsequently decide to offer to reinstate the pupil within 10 school days
- Any information that the panel has directed the Governing Body to place on the pupil's educational record

7. School registers

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

- 15 school days have passed since the parents/carers/pupil (if they are 18 or older) were notified of the governing body's decision to not reinstate the pupil and no application has been made for an independent review panel, or
- The parents/carers/pupil 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 within 15 school days, the Governing Body will wait until that review has concluded before removing a pupil's name from the register.

While the pupil's name remains on the school's admission register, the pupil's attendance will still be recorded appropriately. 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.

Making a return to the LA

Where a pupil's name is to be removed from the school admissions register because of a permanent exclusion, the school will make a return to the LA. The return will include:

- The pupil's full name
- The full name and address of any parent/carer with whom the pupil normally resides
- At least 1 telephone number at which any parent/carer with whom the pupil normally resides can be contacted in an emergency
- The grounds upon which their name is to be deleted from the admissions register (i.e. permanent exclusion)
- Details of the new school the pupil will attend, including the name of that school and the first date when the pupil attended or is due to attend there, if the parents/carers have told the school the pupil is moving to another school
- Details of the pupil's new address, including the new address, the name of the parent/carer(s) the pupil is going to live there with, and the date when the pupil is going to start living there, if the parents/carers have informed the school that the pupil is moving house

This return must be made as soon as the grounds for removal is met and no later than the removal of the pupil's name.

8. Returning from a suspension

8.1 Reintegration strategy

Following suspension, or cancelled suspension or exclusion, the school will put in place a strategy to help the pupil reintegrate successfully into school life and full-time education.

Where necessary, the school will work with third-party organisations to identify whether the pupil has any unmet special educational and/or health needs.

Part-time timetables will not be used as a tool to manage behaviour and, if used, will be put in place for the minimum time necessary.

The strategy will be regularly reviewed and adapted where necessary throughout the reintegration process in collaboration with the pupil, parents/carers, and other relevant parties.

8.2 Reintegration meetings

The school will clearly explain the reintegration strategy to the pupil in a reintegration meeting before or on the pupil's return to school. During the meeting the school will communicate to the pupil that they are getting a fresh start and that they are a valued member of the school community.

The pupil, parents/carers, a member of senior staff, and any other relevant staff will be invited to attend the meeting.

The meeting can proceed without the parents/carers in the event that they cannot or do not attend.

The school expects all returning pupils and their parents/carers to attend their reintegration meeting, but pupils who do not attend will not be prevented from returning to the classroom.

9. Remote access to meetings

Parents/carers, or pupils if they are 18 or older, can request that a Governing Body meeting, or independent review panel be held remotely. If the parents/carers/pupil don't express a preference, the meeting will be held in person.

In case of extraordinary or unforeseen circumstances, which mean it is not reasonably practicable for the meeting to be held in person, the meeting will be held remotely.

Remotely accessed meetings are subject to the same procedural requirements as in-person meetings.

The Governing Body and the academy trust should make sure that the following conditions are met before agreeing to let a meeting proceed remotely:

- All the participants have access to the technology that will allow them to hear, speak, see and be seen
- All the participants will be able participate fully
- The remote meeting can be held fairly and transparently

Social workers and the VSH always have the option of joining remotely, whether the meeting is being held in person or not, as long as they can meet the conditions for remote access listed above.

The meeting will be rearranged to an in-person meeting without delay if technical issues arise that can't be reasonably resolved and:

- Compromise the ability of participants to contribute effectively, or
- Prevent the meeting from running fairly and transparently

10. Monitoring arrangements

The school will collect data on the following:

- Attendance, permanent exclusions and suspensions
- Use of pupil referral units (PRUs), off-site directions and managed moves
- Anonymous surveys of staff, pupils, governors/trustees and other stakeholders on their perceptions and experiences

The data will be analysed from a variety of perspectives including:

- At school level
- By age group
- By time of day/week/term
- By protected characteristic

The school will use the results of this analysis to make sure it is meeting its duties under the Equality Act 2010. If any patterns or disparities between groups of pupils are identified by this analysis, the school will review its policies in order to tackle it.

The Trust will work with its academies to consider this data, and to analyse whether there are patterns across the Trust, recognising that numbers in any 1 academy may be too low to allow for meaningful statistical analysis.

This policy will be reviewed by the central senior leadership team every year. At every review, the policy will be approved by the Trust Board.

11. Links with other policies

This policy is linked to our:

- Behaviour policy
- SEND policy and information report

Appendix 1: independent review panel training

Great Heights Academy Trust must make sure 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 suspensions and permanent exclusions on disciplinary grounds, 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 Principals, Governing Body 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: Checklist for Principals and Governors

Suspensions and Exclusions should only be necessary as a last resort when strategies, practices and interventions set out within the Behaviour in Schools guidance have not been successful in improving a pupil's behaviour or the use of more significant interventions or sanctions are required.

This checklist is intended to ensure support is provided in a timely way to meet the needs of learners and reduce vulnerability to exclusion and ensure all actions have been taken to ensure exclusion is a last resort.

Please use the checklist alongside: Behaviour in Schools and Suspension and Permanent Exclusion Guidance (2022)

(the LA can advise if needed)

Section A – Principal's checklist	☑
Has the decision to suspend or permanently exclude been taken by the Principal (Acting Principal)?	
Has there been a serious breach or breaches of the school behaviour policy? Is there evidence of a full investigation? Has the pupil committed the offence? (standard of proof - on the balance of probabilities did the pupil do it?) Have any discrepancies in the accounts of those involved been explored and a conclusion on the balance of probabilities been reached?	
<p>In relation to a permanent exclusion have both parts of the two-part legal test been met with supporting evidence?</p> <ul style="list-style-type: none"> • Part one: Has there been a serious breach OR persistent breaches established on a balance of probabilities? AND • Part two: Would allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school? 	
<p>Would reinstatement of the pupil seriously harm the education/welfare of pupils/others?</p> <ul style="list-style-type: none"> • 'Would' requires a higher level of certainty than 'might', 'could', 'is likely to'. • 'Serious harm' requires a higher level of impact than 'detriment'. 	
Has a risk assessment been completed and implemented where there is a need to manage risk?	
<p>Is the decision fair?</p> <p>An example of unfair decision might be when one pupil is permanently excluded for the same offence as a pupil who was not, where there are no other differences between the pupils or mitigating circumstances to explain this.</p>	
<p>Is the decision rational and reasonable?</p> <ul style="list-style-type: none"> • An irrational decision is one that no ordinary and objective person would reasonably make –ensure you have based your decision on relevant evidence not irrelevant considerations 	
<ul style="list-style-type: none"> • Was the decision a last resort? ie did the Principal consider and implement alternative strategies to address the behaviour or avoid the incident (e.g. off-site direction, managed move, pupil support units) and advice within page 29 Behaviour in Schools Guidance? If rejected, has this been explained? Did the school do all it could to mitigate against exclusion or has it satisfactorily argued that the behaviour could not have been foreseen ? 	
Is the suspension/exclusion an appropriate proportionate response to the incident/s and in the best interest of the learner considering the European Convention on Human Rights and Equality Act 2010 and associated guidance? Is it the minimum sanction available in the circumstances of the case considering any special circumstances?	

Has the school considered and applied its own relevant policies and procedures in relation to behaviour/suspensions/permanent exclusion/SEN /Safeguarding? How/did the incident relate to the policies ?	
Where relevant, has the pupil been explicitly taught what good behaviour looks like? Some pupils will need additional support to reach the expected standard of behaviour.	
Were the pupil's views taken into account before deciding to exclude? Was the pupil informed about how their views were factored into any decision made? Where relevant, was the pupil given support to express their view (including through advocates such as parents or where pupil has one, a social worker).	
Were the interests and circumstances of the excluded/suspended pupil considered and consideration given to other acceptable sanctions within paragraph 45 of the Behaviour in Schools guidance prior to suspension/exclusion? If rejected, has this been explained?	
In the case of the issuing of a further suspension or permanent exclusion after the first period ends, is there evidence of an 'exceptional case where further evidence has come to light'?	
Where there were serious concerns around the pupil's behaviour was a multi-agency assessment such as an early help assessment or statutory assessment that goes beyond the pupil's educational needs considered? If not considered why not ?	
Have any circumstances that may have acutely increased the pupil's risk of suspension or permanent exclusion for example, if the pupil has suffered bereavement, experienced abuse or neglect, has mental health needs (Principals should have regard to the Mental health and behaviour in schools guidance (2018) , has been subject to bullying, has needs including SEND (including any not previously identified), has been subject to criminal exploitation, or is experiencing significant challenges at home been taken into account? Have you engaged with all relevant parties involved with the pupil eg social worker , VSH, SENCO before reaching a decision to exclude?	
Can the graduated response and any school partnerships or outside referrals be utilised to add further support to the learner?	
Pupils with disabilities and special educational needs (SEN) including those with Education, Health and Care plans (EHC plans)	<input checked="" type="checkbox"/>
Does this student have a special educational need/EHCP and/or disability? <ul style="list-style-type: none"> A child is disabled if they have a long-term (Long term is defined as lasting, or likely to last, for at least 12 months) physical or mental impairment which has an adverse effect on their ability to carry out day-to-day activities (this is the definition in the Equality Act 2010). 	
Did School use their 'best endeavours' to ensure the appropriate special educational needs provision was made to include any support in relation to behaviour management required because of their SEN? (Using best endeavours means doing everything they can to meet the child or young person's SEN, with or without an EHCP).	
Were reasonable adjustments made to policy and practice and accordance with the Equalities Act (2010) to include anticipatory duties, in the case of a disabled pupil?(see chapter 6 SEN COP (2015)	
Were any concerns around behaviour, or risk of suspension and permanent exclusion, of a pupil with SEN, a disability or an EHC plan considered in partnership with others (including where relevant the LA) to consider what additional support or alternative placement may be required, to include assessment of suitability of provision for a pupil's SEN or disability?	
In the case of a pupil with an EHC plan, did school contact the LA about any behavioural concerns at an early stage and consider requesting an early annual review prior to making the decision to suspend or permanently exclude?	
In the case of pupil with SEN but without an EHC plan, did school review, with external specialists as appropriate, whether the support arrangements in place were appropriate and if any changes required. Did School consider if an appropriate point to request an EHC assessment or a review of the pupil's current package of support? Has the parent requested a review?	

Pupils who have a social worker, including looked-after children and previously looked-after children	<input checked="" type="checkbox"/>
Evidence of balancing the protective factor of school environment for pupils with social worker/LAC/previously looked after with the need to ensure a calm and safe environment for pupils in school? <ul style="list-style-type: none"> Is it safe for the pupil to be suspended or permanently excluded and sent home? Are there concerns about the pupil being at risk of exploitation in the community? Is there a safer alternative? 	
Where a pupil has a social worker and at risk of suspensions or permanent exclusions did the Principal engage with the Social Worker/Designated Safeguarding Lead and pupils parents to involve as early as possible in relevant conversations?	
Where a LAC is at risk of suspension or permanent exclusion did the Principal contact the VSH as early as possible to consider additional assessment and support needed to be put in place to support school address factors affecting behaviour and reduce the need for suspension or permanent exclusion ?	
In the case of previously looked-after children at risk of beings suspended or permanently excluded, did school engage with the child's parents and the schools Designated Teacher and seek advice from the VSH on strategies to support the pupil?	
The Principals' duty to inform parties about an exclusion	<input checked="" type="checkbox"/>
Notification without delay of the period of the suspension or permanent exclusion and the reason(s) for it to: <ul style="list-style-type: none"> parents/carers Governing Body LA (regardless of length of exclusion) Social worker, if a pupil has one Virtual School Principal if the pupil is a LAC 	
Arrange setting and marking of suitable full time work for the first five days of the suspension/exclusion where the pupil will not be attending alternative provision.	
Arrange education from day 6 of a fixed term suspension over 5 days (LA arranged when permanent)/inform parents of this/social worker VSH where applicable.	
If the pupil has an EHCP consult the LA and parents as the Plan may need to be reviewed.	
Do governors have a process in place for considering reinstatement following an exclusion. Refer to and ensure you can answer all the bullet points in para 88 of the Exclusions Guidance (2023).	
Section B - Governing body's duty to consider an excluded pupil's reinstatement	<input checked="" type="checkbox"/>
Arrange a meeting (at least 3 Governors who are not aware of the case*), – mutually convenient time (within 15 school days for permanent exclusions and those over 15 days in a term) and invite: <ul style="list-style-type: none"> pupil (if they are 18 years or over) parents/carers and where requested a representative or friend Principal LA Representative ** Where relevant Social Worker and/or Virtual School Head <p>* <i>Governing Body – in the case of hearings and appeals the term governing body may include representatives from other Governing Bodies or Trustees within the Great Heights Academy Trust to ensure matters are impartial and dealt with in a timely manner.</i></p> <p>** <i>Academies do not have to invite LA but can do so – parents can request LA attend the meeting as an observer and can make representation at the meeting if Chair allows</i></p>	

<p>Ask for any written evidence in advance of the meeting, include regard to pre exclusion considerations (Principal's checklist), including (not exhaustive);</p> <ul style="list-style-type: none"> • Principal report to include reasoning for decision detailing why the disciplinary breach meets the criteria for a reasonable, rational and fair, last resort decision whereby allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school • Statement from the excluded pupil and witnesses, signed and dated • other relevant information held by the school such as those relating to a pupil's SEN and the pupil's school record • Policies (or sections of policies) – as relevant to specific excluding incident eg Behaviour/Exclusion Policy/SEND/Anti-bullying/Drugs/Restrictive Physical Intervention/Equalities Act 2010 • History of challenging behaviour if exclusion in relation to persistent challenging behaviour (In the case of a serious one off event, only detail information to that event is relevant). • Evidence of consideration/implementation/impact of strategies within Behaviour in Schools guidance (2022) • Risk Assessment <p>Has the Principal demonstrated that the exclusion has been carefully considered and is being used as a last resort (The checklist in Section A above is designed to assist in these deliberations)?</p>	
<p>Circulate written evidence and information (all parties must receive the same information), including a list of those who will be present, to all parties at least five school days in advance of the meeting</p>	
<p>Allow parents and the pupil to be accompanied by a friend or representative (where a pupil under 18 is to be invited as a witness, the Governing Body should first seek parental consent)</p>	
<p>Make reasonable adjustments to support attendance and contribution of parties at the meeting eg where a parent or pupil has a disability with mobility or communication that has an impact on ability to attend or make representations</p>	
<p>Identify the steps to enable and encourage the pupil to attend the meeting and speak on their behalf (such as providing accessible information or allowing them to bring a friend), taking account of pupils age and understanding; or how can feed in views by other means if not attending.</p>	
<p>Governors must consider both the interests and circumstances of the suspended or excluded pupil, and that of other pupils, staff and school community</p>	
<p>Governors must take into account the pupil's age and understanding, the pupil or parents should be made aware of their right to attend and participate in the Governing Body meeting and pupil should be enabled to make own representation if they wish to do so</p>	
<p>Governing Body must consider representations made by or on behalf of:</p> <ul style="list-style-type: none"> • Parents or the pupil if they are 18 years or older • The Principal • The pupil's social worker if the pupil has one; • If the pupil is looked after, the Virtual School Head • the Local Authority if representation invited by an Academy 	
<p>When establishing the facts must apply the civil standard of proof ie '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'</p>	
<p>Governing Body should ensure clear minutes are taken of the meeting and should be made available to all parties on request and the record of discussion should state clearly how the decisions have been reached and provide reasons</p>	
<p>The Governing Body should ask all parties to withdraw from the meeting before making a decision. The Clerk may stay to help the Governing Body by reference to their notes of the meeting and the wording of the decision letter.</p>	
<p>In reaching a decision on whether a pupil should be reinstated, the Governing Body should consider if the decision to permanently exclude or suspend the pupil was lawful, reasonable and procedurally fair. Should consider welfare and safeguarding of the pupil and peers, the head's legal duties, and any evidence presented to the Governing Body in relation to decision to exclude.</p>	
<p>Governing Body should note the outcome of its consideration on the pupil's educational record and copies of the relevant papers should be kept with the educational record. In cases where governors consider parents representation but does not reinstate the pupil, it should consider if appropriate to place a note on the pupils record.</p>	

A summary of the Governing Body’s duties to review the Principal’s exclusion decision

Conditions of exclusion

Governing Body duties

Does the exclusion meet any of the following conditions?

- It is a permanent exclusion
- It is a suspension that alone, or in conjunction with previous suspensions, will take the pupil’s total number of days out of school above 15 for a term
- It is a suspension or permanent exclusion that will result in the pupil missing a public exam or national curriculum test*

Yes

No

The Governing Body must convene a meeting to consider reinstatement **within 15 school days** of receiving notice of the suspension or permanent exclusion.⁴⁹

*If the pupil will miss a public exam or national curriculum test, the Governing Body must take reasonable steps to meet **before** the date of the examination. If this is not practical, the chair of governors may consider pupil’s reinstatement alone.

Will the suspension(s) take the pupil’s total number of school days out of school above five but less than 16 for the term?

No

Yes

The Governing Body must consider any representations made by parents but does not have the power to decide whether to reinstate the pupil.

Have the pupil’s parents requested a Governing Body meeting?

Yes

No

The Governing Body must convene a meeting to consider reinstatement within 50 school days of receiving notice of the suspension.

The Governing Body is not required to consider the suspension and does not have the power to decide to reinstate the pupil.

Governing Body – in the case of hearings and appeals the term governing body may include representatives from other Governing Bodies or Trustees within the Great Heights Academy Trust to ensure matters are impartial and dealt with in a timely manner.

A summary of the Governing Body's duties to review the Principal's exclusion decision

1. Is it a permanent exclusion?

If the answer is yes, the Governing Body must convene a meeting to consider reinstatement **within 15 school days** of receiving notice of the permanent exclusion.⁵¹
If the answer is no, go to step 2.

2. Is it a suspension that alone, or in conjunction with previous suspensions, will take the pupil's total number of days out of school above 15 for a term

If the answer is yes, the Governing Body must convene a meeting to consider reinstatement **within 15 school days** of receiving notice of the suspension.⁵²
If the answer is no, go to step 3.

3. Is it a suspension or permanent exclusion that will result in the pupil missing a public exam or national curriculum test?

If the answer is yes, the Governing Body must convene a meeting to consider reinstatement **within 15 school days** of receiving notice of the suspension or permanent exclusion.⁵³ The Governing Body must also take reasonable steps to meet **before** the date of the examination. If this is not practical, the chair of governors may consider pupil's reinstatement alone.⁵⁴
If the answer is no, go to step 4.

4. Will the suspension(s) take the pupil's total number of school days out of school above five but less than 16 for the term?

If the answer is yes, go to step 5.

If the answer is no, the Governing Body must consider any representations made by parents but does not have the power to decide whether to reinstate the pupil.

5. Have the pupil's parents requested a Governing Body meeting?

If the answer is yes, the Governing Body must convene a meeting to consider reinstatement within 50 school days of receiving notice of the suspension.

The Governing Body is not required to consider the suspension and does not have the power to decide to reinstate the pupil.