

EXCLUSIONS POLICY

Contents

1	Aims.....	2
2	Legislation and statutory guidance	2
3	The decision to exclude	2
4	Definition	3
5	Roles and responsibilities	3
6	Considering the reinstatement of a pupil	5
7	An independent review	6
8	School registers	7
9	Returning from a fixed-term exclusion	7
10	Monitoring arrangements	7
11	Links with other policies.....	8
	Appendix 1 Independent Review panel training	8
	Appendix 2 Sources of support for families.....	9

REVIEW

Last reviewed: March 2020 (Trust Board)

To be reviewed: Spring 2023

Policies may be subject to review and revision at any time, notwithstanding that the next review date has not been reached. Review dates are for guidance only; all policies will remain in force until a review has taken place and been formally approved by the Trust

1 Aims

The Girls' Learning Trust aims to ensure that:

- The exclusions process is applied fairly and consistently across all our schools
- The exclusions process is understood by trustees, governors, staff, parents and pupils
- Pupils in our schools are safe, happy and making good progress
- 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.'
(2017)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/641418/20170831_Exclusion_Stat_guidance_Web_version.pdf

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

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

In addition, the policy is based on:

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

This policy should be applied in conjunction with each school's individual behaviour policy.

3 The decision to exclude

Only the headteacher, or an 'acting' headteacher, on their behalf, can exclude a pupil from Trust schools. Excluding a pupil is a serious step to take. Any GLT school will only do so as a last resort following serious breaches of discipline or if the pupil's presence in school may affect the education of other pupils or be harmful to other pupils or staff. All decisions to exclude a pupil will be lawful, reasonable and fair. Before a pupil is excluded, a wide range of strategies will be implemented in order to support, and improve the behaviour of, the pupil.

A decision to exclude a pupil will be taken only:

- In response to serious or persistent breaches of the school's behaviour policy, **and**
- If allowing the pupil to remain in school would seriously harm the education or welfare of others

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

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

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 local governing board (fixed-term) or Trust Disciplinary Committee (permanent) and how the pupil may be involved in this
- Where there is a legal requirement for the Trust Disciplinary Committee 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 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.

Alternative Provision Arrangements and Notification

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

The headteacher will immediately notify the CEO, chair of local governing board and the local authority (LA) of:

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

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

For all other exclusions, the headteacher will notify the chair of local governing board and LA once a term.

5.2 The Academy Trust responsibilities

Responsibilities regarding exclusions are delegated to the Trust Exclusions Committee. These include:

1. Having a duty to consider the reinstatement of an excluded pupil in specific circumstances (see section 6 below).
2. Within 14 days of receipt of a request, the trust board will provide the secretary of state with information about any exclusions in the last 12 months.
3. For a fixed-period exclusion of more than 5 school days, the trust board will arrange suitable full-time education for the pupil. In practice this duty is delegated to the head teacher. This provision will begin no later than the sixth day of the exclusion.

5.3 The LA

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

6 Considering the reinstatement of a pupil

The GLT Exclusions Committee will convene to 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 committee will convene to 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 committee will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the Trust Chair will consider the exclusion and decide whether or not to reinstate the pupil.

The exclusions 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, the exclusions 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 exclusions 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 exclusions 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 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 governing board 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 exclusions committee 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 governors 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/director of the academy trust, or governing body of the excluding school
- Are the headteacher of the excluding school, or have held this position in the last 5 years
- Are an employee of the academy trust, or the governing body, of the excluding school
- Have, or at any time have had, any connection with the academy trust, school, governing board, parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality
- Have not had the required training within the last 2 years (see appendix 1 for what training must cover)

A clerk will be appointed to the panel.

The independent panel will decide one of the following:

- Uphold the trust board's decision
- Recommend that the trust board reconsiders reinstatement
- Quash the trust 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 school will wait until that review has concluded before removing a pupil's name from the register.

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

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

9 Returning from an external fixed-term exclusion

Following a fixed-term exclusion, a re-integration meeting will be held involving the pupil, parents, a member of senior staff and other staff, where appropriate.

The following measures may be implemented when a pupil returns from a fixed-term exclusion:

- Agreeing a behaviour contract
- Putting intervention or support in place to enable a pupil to moderate their behaviour
- Restorative meeting
- Additional SEN support

10 Monitoring arrangements

All fixed-term and permanent exclusions at any school within the Trust must have the approval of the CEO in advance of the exclusion taking place. The Trust Board should be informed of any external fixed or permanent exclusions through the CEO. The trust board monitors the number of fixed-term exclusions to ensure that no group of pupils in any school is unfairly disadvantaged through their use and that any underlying needs of any individuals are being fully met.

11 Links with other GLT policies and documents

This exclusions policy is linked to our

- SEND Policy
- Safeguarding Policy
- Health and Safety Policy
- Public Sector Equality Objectives

Appendix 1: independent review panel training

The Girls' Learning Trust will ensure that all members of an independent review panel and clerks have received training within the 2 years prior to the date of the review.

Training must have covered:

- The requirements of the primary legislation, regulations and statutory guidance governing exclusions, which would include an understanding of how the principles applicable in an application for judicial review relate to the panel's decision making
 - The need for the panel to observe procedural fairness and the rules of natural justice
 - The role of the chair and the clerk of a review panel
 - The duties of headteachers, governing boards and the panel under the Equality Act 2010
 - The effect of section 6 of the Human Rights Act 1998 (acts of public authorities unlawful if not compatible with certain human rights) and the need to act in a manner compatible with human rights protected by that Act.
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Appendix 2: Sources of Support for Families

If you have any questions The Cognus Inclusion Coordinator, can be contacted on 07508 984925 or exclusions@cognus.org.uk.

Listed below are other organisations that you may find helpful for advice, support and information:-

Coram Children's Legal Centre, which is an independent national advice centre that offers information and support on state education, including on exclusion from school at www.childrenslegalcentre.com

ACE Education runs a limited advice line service and can be contacted on 03000 115142 Monday to Wednesday from 10am to 1pm. Information can be found on www.ace-ed.org.uk

DfE statutory guidance on exclusions www.gov.uk/government/publications/school-exclusion
The **National Autistic Society** (Schools Exclusion Service (England)) can be contacted on 0800 800 4002 or www.autism.org.uk/services/helplines/school-exclusions.aspx **Independent Parental Special Education Advice** www.ipsea.org.uk

Sutton Information, Advice and Support Service, provides confidential, impartial information, advice and support to parents/carers, children and young people with special educational needs (SEND). They can be contacted on 020 8323 0462 and siass@cognus.org.uk

Merton & Sutton Traveller Education Service 020 8648 3267