

## EXCLUSIONS POLICY

### 1. Purpose

- 1.1 This policy reflects the guidance introduced and updated by the Department for Education and outlines the practice for all schools and academies within The Two Counties Trust in respect of student exclusions.

### 2. Fixed term and permanent exclusions

- 2.1 There are two types of exclusion covered by this policy: fixed term and permanent.
- 2.2 There is a limit of 45 school days in an academic year for fixed term exclusions.
- 2.3 Permanent exclusions and any fixed term exclusions which result in the student being excluded for more than 15 school days (singly or cumulatively) must be reviewed by a panel of governors.
- 2.4 Any permanent exclusion must be reported immediately to the Chief Executive Officer of The Two Counties Trust providing the exclusion letter and advice note to parents without delay.
- 2.5 The Trust will inform the relevant governors and arrange / clerk the required review meetings as required.
- 2.6 There should be no delay in gathering evidence and witness statements by the school / academy as because the school / academy and The Two Counties Trust are under a legal obligation to meet statutory deadlines.
- 2.7 Exclusions must be recorded on the Management Information System in a timely manner and reported to The Trust Board by the Chief Executive Officer at least annually.

### 3 Exclusions procedure

- 3.1 Only a Headteacher may exclude a student.
- 3.2 Exclusions can only be for a breach of behaviour policy. This policy must be widely published to all students and parents on the school / academy website. Care must be taken to avoid 'informal' or 'unofficial' exclusions for example sending a child off-site for a 'cooling down' period). However, a student whose behaviour at lunchtime is disruptive may be excluded from the school / academy premises for the duration of the lunchtime period.
- 3.3 Exclusions are illegal if they occur for the following reasons, among others:
  - Because a child has additional needs /a disability that the school / academy feels it is unable to meet;
  - Lack of academic attainment/ability;
  - Based on the actions of a student's parents; or
  - Failure of a student to meet specific conditions before reinstatement.
- 3.4 Permanent exclusion should only be used as a last resort where all strategies to change behaviour have failed. This may be in response persistent breaches of the behaviour policy or for a 'one off' serious breach of the behaviour policy. It must be demonstrated that allowing the student to remain in the school / academy would seriously harm the education or welfare of the student or others.
- 3.5 Where an excluded student has a Statement of Special Educational Needs (SEN) or is on the SEN register, it must be demonstrated that the school / academy has provided extensive

support to help the student and there should be intervention strategies in place which have been discussed with the student and parents.

- 3.6 The school / academy should be mindful of the guidance that The Headteacher should, as far as possible, avoid permanently excluding any student with an EHC plan or a looked after child.
- 3.7 Headteachers should ensure that the behaviour policy is reviewed on an annual basis and approved by the Local Governing Body.

#### **4 Duty to inform parents.**

- 4.1 Parents / carers must be informed immediately and in writing of the length and type of exclusion, and of their right to make representations to the governors.
- 4.2 Students aged 18 or over have to be informed and have the right to appeal on their own behalf. Pursuant to the duty of care placed on a school / academy to ensure the welfare of students, parents / carers must be advised of an exclusion prior to the child being sent off-site.

#### **5 Review of a decision to exclude**

- 5.1 In all cases of permanent exclusions and fixed term exclusions amounting to over 15 days in a term (cumulatively or singly), the decision of the Headteacher must be reviewed.
- 5.2 The quorum for this review is three governors with a suitably trained clerk.
- 5.3 Governors appointed will constitute the Governors' Discipline Committee ("the GDC"). The Headteacher cannot be a member of the GDC. Subject to the availability of governors, review meetings should be held within a period of 15 school days from the date of the exclusion.
- 5.4 It is important that arrangements are made without delay and the Headteacher arranges for paperwork to be prepared immediately.
- 5.5 For fixed term exclusions totalling five or fewer school days, or 10 or fewer lunchtimes or half days in any one term, must be reported at each Local Governing Body meeting and recorded on the Management Information System.
- 5.6 The Local Governing Body can agree to set up a meeting with the parent(s) if they make representations about one of these exclusions but do not have to do so, though it must consider any representations made by the parent.
- 5.7 If an exclusion means that a student will miss a public exam, the GDC should try to meet before the date of the exam. If this is not practicable, the Chair of Governors can use the emergency powers for Chair's action to review the exclusion.
- 5.8 For fixed term exclusions of 6 to 15 school days, the GDC must meet to consider any representations from the parent if received.
- 5.9 For fixed term exclusions of more than 15 days in one term or which cumulatively add up to more than 15 days, and for permanent exclusions, the GDC must hold a formal hearing within 15 school days, whether or not the parent(s) make representations.
- 5.10 The GDC may confirm the exclusion or direct reinstatement of the student. There is no legal option to impose a lesser sanction, i.e. to commute a permanent exclusion to a fixed term one.

- 5.11 The GDC can direct that any students excluded for a fixed term of more than five days or students who would miss a public exam or permanently excluded student are reinstated.
- 5.12 If a student is to be reinstated, a re-integration programme should be planned with the school / academy.
- 5.13 If reinstatement is not practicable, because the student is already back in the school / academy or because the parent does not want it, the GDC must consider the representations made by the school / academy and parent(s), and decide whether or not the exclusion was justified. This decision should be included in the student's record.
- 5.14 After the GDC hearing, the Clerk must inform the parties in writing about the outcome with reasons for the decision. Every effort should be made to ensure that confirmation in writing is given the same day if delivered in person, or second day through the use of first class post.
- 5.15 If a permanent exclusion is upheld, parent(s) must be told of their right to seek an independent review by an Independent Review Panel of the decision reached by governors, and the deadline for seeking a review. They also have the right to have a SEN expert attend the IRP. When the school / academy writes to the parent(s) communicating the decision reached by governors' details of the right of independent review are given. The parent(s) / carers have 15 school days from the date when notified of the GDC decision to seek an IRP meeting.

## 6 Principles of Natural Justice

- 6.1 All decisions to exclude are based on a balance of probabilities both by Headteachers and at any subsequent review. In making a decisions to exclude a Headteacher must ensure that their decisions are fair and based on the facts of the incident and do not include any elements of discrimination. Where a GDC reviews a decision to exclude, the latter issue will be tested.
- 6.2 Members of the GDC should be impartial, unprejudiced, have taken no previous part in the case, and have no personal interest in its result.
- 6.3 Headteachers should not discuss individual exclusions with members of their Local Governing Body as cases may be referred to the GDC for review.
- 6.4 Parent(s) should be informed of the case put forward by the school / academy and have an opportunity to challenge it.
- 6.5 Both parties should be allowed to present their case without unreasonable interruption.
- 6.6 Parent(s)/ carers should be able to bring a friend or adviser with them.
- 6.7 All documents to be used in evidence should be distributed to all parties at least five working days before the hearing. If new material is introduced at the hearing, all parties must have time to consider it.
- 6.8 No party to the hearing should be in the presence of the GDC unless the other party is also present. Everyone should have had a opportunity to present their case and have been listened to.

## 7 Independent Review Panels (IRPs)

- 7.1 The Two Counties Trust is responsible for managing independent reviews against permanent exclusion and external agencies are used for this purpose.
- 7.2 The review must be heard within 15 school days from the date when the parent(s) / carers appeal. The independent review is normally attended by the Headteacher, the lead staff member on the case and the Chair of the relevant GDC. The Clerk may attend but plays no formal part in proceedings.
- 7.3 Where the parent / carer has legal representation, or it is considered appropriate on behalf of the school / academy, it may be agreed that the school / academy should also have legal representation. This will be arranged by The Two Counties Trust.
- 7.4 IRPs cannot direct that a student is re- instated and their powers are restricted to:
- a) upholding the exclusion
  - b) recommending that the GDC reconsiders its decision
  - c) quashing the GDC decision and directing the GDC to reconsider its decision.

If in the latter case, the GDC does not meet or maintains its original decision, there is a financial penalty.

## 8 Parallel police proceedings

- 8.1 The GDC has no power to delay a hearing beyond the statutory time limit because of police proceedings. If a permanent exclusion is upheld in these circumstances, the parent has 15 days to appeal to the IRP in the normal way.

## 9 Other relevant legislation

- 9.1 The Education Act 2002 as amended, The School Discipline Regulations 2012, The Education and Inspection Act 2006, The Education Regulations 2007 (provision of full time education for excluded pupils), Human Rights and Equality legislation. SEN guidance.

## 10. General Data Protection Regulation

- 10.1 All data within this policy will be processed in line with the requirements and protections set out in the General Data Protection Regulation

### Document management

Review cycle:	Every two years
Next review due:	May 2022
Policy owner	Chief Executive