

## Exclusion Policy



<b>STATUTORY / NON-STATUTORY</b>	<b>STATUTORY</b>
<b>MEMBER OF STAFF RESPONSIBLE</b>	<b>DHT</b>
<b>DATE APPROVED BY Head/SLT</b>	<b>November 2020</b>
<b>GOVERNING BODY OR COMMITTEE RESPONSIBLE</b>	<b>SIC</b>
<b>DATE OF FULL GOVERNING BODY APPROVAL</b>	<b>November 2020</b>
<b>REVISION DUE DATE</b>	<b>November 2021</b>

## 1. Introduction

1.1 **Scope:** This policy contains guidelines, which will be adapted as necessary, explaining the circumstances under which a pupil may be excluded on a fixed term or permanent basis from the School. The policy applies to all pupils at the School. This policy can be made available in large print or other accessible format if required.

1.2 This policy is based on statutory guidance from the Department for Education: *Exclusion from maintained schools, academies and pupil referral units (PRUs) in England*, and complies with our funding agreement and articles of association as an Academy.

1.3 It is based on the following legislation, which outline 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

1.4 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

1.5 This policy takes account of the School's public sector equality duty set out in section 149 of the Equality Act 2010.

1.6 **Interpretation:** The definitions in this clause apply in this policy.

**Headteacher:** references to the Headteacher can also include the Deputy Headteacher

**Parent:** includes one or both of the parents, carer(s) or a legal guardian.

**Exclusion:** means removal from the school for a fixed term or permanently following serious misconduct.

## 2 Policy statement

2.1 **Aims:** The aims of this policy are:

- to support the school's behaviour policy
- to ensure procedural fairness and consistency
- to promote co-operation between the school and parents when it is necessary for the pupil to leave earlier than expected.

- to ensure pupils in the school are safe and happy as a community
- to ensure pupils do not become NEET (not in education, employment or training)

2.2 **Misconduct:** The main categories of misconduct which may result in exclusion are:

- supply / possession / use of certain drugs and solvents or their paraphernalia or substances intended to resemble them, or alcohol or tobacco
- theft, blackmail, physical violence, intimidation, racism or persistent bullying
- misconduct of a sexual nature, supply or possession of pornography
- possession or use of unauthorised firearms or other weapons
- vandalism or computer hacking
- violence against a pupil or adult within the school community
- other serious misconduct which affects the welfare of a member or members of the **School Community** (a single episode or repeated episodes) on or off school premises.

2.3 **Behaviour related to a disability/protected characteristic:** the school will make reasonable adjustments for managing behaviour which is related to a pupil's disability/protected characteristic. Where exclusion needs to be considered, the school will ensure that a pupil is able to present his or her case fully where the disability/protected characteristic might hinder this.

### 3 Investigation procedure

3.1 **Complaint(s):** Investigation of a complaint or rumour or concern about serious misconduct will normally be co-ordinated by the House Leader(s), their link Senior Leadership Team member or other member of the Leadership Team, and its outcome will be reported to the Headteacher. Parents will be informed as soon as reasonably practicable if a complaint under investigation is of a nature that could result in the pupil being excluded.

3.2 **Fixed term exclusion:** A pupil may then be subject to a fixed term exclusion following this investigation based upon evidence made available to the school via statements. The standard of proof shall normally be the civil standard, i.e. 'the balance of probabilities'. A pupil may be subject to a fresh exclusion pertaining to the same incident, if the school gains further evidence that informs 'the balance of probabilities' in the course of the school's investigation than was available in the first 24 hours or so.

3.3 Should a fixed term exclusion continue for a period of more than five school days, the school will put in place arrangements to ensure the continuing education of the pupil. The relevant House Leader will co-ordinate these arrangements with the pupil's parents.

3.4 **Search:** Searches, Confiscation and Liaison with the Police and other partners:

In line with current legislation Senior Leadership Team and House Leaders for Guidance/Learning reserve the right to search pupils if they have reason to believe that they are carrying offensive weapons or illegal substances. Similarly pupils can expect to be

physically restrained if they present a danger to themselves or other members of the community. Parents/Carers will always be informed when this has happened.

If inappropriate articles are brought in to school or used inappropriately they may be confiscated and kept in the school safe for appropriate follow up according to this or other policy such as our Behaviour Policy. If these items are dangerous or illegal they may be handed to the Police for safe disposal.

- 3.5 Noadswood School works closely with local police, social services and local schools in the Hampshire Safe partnership. If pupils are involved with any activity which breaks the law the police may be involved in the confiscation of items, Restorative Justice Conferencing, group work and education as well as links with home. Parents/Carers will always be informed when the police are involved and given the opportunity to attend any interviews.
- 3.6 Similarly the police will be involved if any student is suspected of having contact with an illegal substance. This includes possession, using or dealing. In such cases, the police will decide what course of action should be taken (See Drugs Policy)
- 3.7 **Interview:** A pupil may be interviewed by members of staff detailed earlier to establish whether there are grounds for further action. A pupil who is waiting to be interviewed may be segregated from other pupils, but made as comfortable as possible, accompanied or visited regularly by a member of staff, and given access to a toilet and adequate food and drink.
- 3.8 **Ethos:** An investigation and any subsequent meeting will be conducted fairly and in a way which is appropriate to a school, without formal legal procedures.
- 3.9 **Adjournment of an investigation:** It may be necessary to adjourn an investigation, for example where external agencies such as the police or social services are involved and have advised that this is necessary. A decision to adjourn an investigation will take into account advice from an appropriate external agency and will be subject to periodic review.

#### **4 The decision to exclude:**

- 4.1 Only the headteacher, or acting headteacher, can exclude a pupil from school. A permanent exclusion will be taken as a last resort and 'off-rolling' as an alternative to exclusion or alternative provision is unlawful.

- 4.2 We are committed to following all statutory exclusions procedures and the 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

- 4.3 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) or other circumstances to take into account.

## **5 Roles and Responsibilities:**

### **Informing parents:**

- 5.1 The headteacher will 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 in the letters about parents' right to make representations about the exclusion to the governing board and how the pupil may be involved in this

Where there is a legal requirement for the governing board to meet to consider the reinstatement of a pupil, and that parents have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend

- 5.2 The headteacher will also notify parents in the letter that for the first 5 school days of an exclusion, or until the start date of any alternative provision where this is earlier, that 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.

- 5.3 If alternative provision is being arranged, subsequent to an exclusion, the following information will be conveyed by key school staff (as outlined earlier) and alternative provision Headteacher/Leader as soon as arrangements are made:

The start date for any provision of full-time education that has been arranged and a review point;

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

### **Informing the governing board and local authority**

- 5.4 The headteacher will immediately notify the 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

5.5 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.

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

## **6 The Governing Board**

6.1 Responsibilities regarding exclusions is delegated to the School Improvement Committee.

6.2 A separate Panel drawn from the board and convened by the Clerk will have a duty to consider the reinstatement of an excluded pupil.

6.3 Within 14 days of receipt of a request, the governing board will provide the secretary of state and the LA with information about any exclusions in the last 12 months.

## **7 Considering the reinstatement of a pupil**

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

The exclusion is **permanent**

It is a fixed-term exclusion which would bring the pupil's total number of school days of exclusion **to more than 15** in a term

It would result in a pupil missing a **public examination**

7.2 If requested to do so by parents, the panel will consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion if the pupil would be excluded from school for more than 5 school days, but less than 15, in a single term.

7.3 Where an exclusion would result in a pupil missing a public examination, the Panel will endeavour to consider the reinstatement of the pupil before the date of the examination.

7.4 The Panel can either:

Decline to reinstate the pupil, or

Direct the reinstatement of the pupil immediately, or on a particular date

7.5 In reaching a decision, the Panel 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.

7.6 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.

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

7.8 Where an exclusion is **permanent**, the Panel's decision will also include the following:

The fact that it is permanent

Notice of parents' right to ask for the decision to be reviewed by an independent review panel, and:

The date by which an application for an independent review must be made

The name and address to whom an application for a review should be submitted

That any application should set out the grounds on which it is being made and that, where appropriate, reference to how the pupil's SEN are considered to be relevant to the exclusion

That, regardless of whether the excluded pupil has recognised SEN, parents have a right to require the Academy 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

## **8 Independent Review re Permanent Exclusion:**

If parents apply for an independent review, the Academy 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 the Panel of its decision to not reinstate a pupil.

A panel of 3 or 5 members will be constituted with representatives from each of the categories below. Where a 5-member panel is constituted, 2 members will come from the school 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 or Trustee of the Academy or governing board of Noadswood School

Are the headteacher of Noadswood School, or have held this position in the last 5 years

Are an employee of the Academy or the governing board, of Noadswood School (unless they are employed as a headteacher at another school)

Have, or at any time have had, any connection with Noadswood School, the 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 and the independent panel will decide one of the following:

Uphold the governing board's decision

Recommend that the governing board reconsiders reinstatement

Quash the governing board's decision and direct that they reconsider reinstatement (only when the decision is judged to be flawed)

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

## **9 School Registers**

A permanently excluded 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.

- 9.1 Where an application for an independent review has been made, the governing board will wait until that review has concluded before removing a pupil's name from the register.
- 9.2 Where alternative provision has been made for an excluded pupil or any pupil and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.
- 9.3 Where excluded pupils are not attending alternative provision, code E (absent) will be used.

## **10 Returning from a fixed-term exclusion**

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



10.2 Further measures may be implemented when a pupil concludes a fixed-term exclusion including but not exclusively:

Direction to Alternative Provision at another educational establishment (as discussed above in 5.3),

Agreeing a behaviour contract,

Placing a pupil 'on report',

Time in inclusion provision at Noadswood,

Referrals for support for the pupil (ELSA, counselling at school, a school mentor, CAMHS,

Restorative conversations/conferencing

## **11 Monitoring Arrangements:**

The Assistant Headteacher i/c inclusion and alternative provision monitors the number of exclusions every term and reports back to the Headteacher and the Board of Governors via the Headteacher's Reports and the Governors' Summary Card of information, produced twice per term.

## **12 Links with other policies:**

This policy is linked to our:

- Behaviour Policy
- Drugs Policy

## **Appendix 1: Independent review panel training**

Noadswood School must 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