

*February 2019*



# *Exclusion Policy*

**Approved By: The Trust Board**

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## **Section A**

### **1. Background & context:**

- 1.1. Good behaviour ensures that all students benefit from the opportunities an education at a school in the Horncastle Education Trust provides. Good behaviour is maintained through a clear behaviour management policy which is underpinned by a strong ethos of mutual respect and courtesy. The behaviour management policy incorporates a range of strategies including a series of rewards and sanctions. Exclusion is the most serious of these sanctions.
- 1.2. The schools seek to reduce the number of incidents leading to exclusions by promoting a positive atmosphere of mutual respect and discipline.
- 1.3. The schools regularly monitor the number of Fixed Term Exclusions to ensure that no group of students is unfairly disadvantaged through their use and that any underlying needs of individuals are being fully met.
- 1.4. Exclusion is the removal of a student from the school for a set period (fixed term) or permanently. Exclusion is a serious step and is used as a last resort either because the range of alternative strategies has been exhausted or when a serious breach of the rules has occurred and allowing the student to remain in school would seriously harm the education and welfare of others.
- 1.5. When making any decision about whether to exclude, the Headteacher establishes the facts and then applies the civil standard of proof i.e. on the balance of probabilities it is more likely than not that a fact is true.
- 1.6. Only the Headteacher can exclude a student from school and this must be on disciplinary grounds.
- 1.7. All schools will, where appropriate, consider the possibility of a period of education at the alternative school, either as an alternative to exclusion or as part of the exclusion process.
- 1.8. The schools will also work in partnership with The Reintegration Team at Lincolnshire County Council.

### **2. Fixed term exclusion Principles:**

- 2.1. Exclusion is a sanction used by the school only in cases deemed as serious breaches of the School Behaviour Code.
- 2.2. A student may be at risk of exclusion from school for:
  - 2.2.1 Verbal or physical assault of a student or adult, including racist or homophobic behaviour.
  - 2.2.2 Persistent social media abuse, including cyber-malice
  - 2.2.3 Possession of an offensive weapon (including firearms; knives and laser pens);
  - 2.2.4 Possession of a controlled substance, including legal highs;
  - 2.2.5 Persistent and repetitive disruption of lessons and other students' learning;
  - 2.2.6 Behaviour which could have a significant detrimental effect on the wellbeing of other students or the reputation of the school in the community
  - 2.2.7 Extreme misbehaviour which is deemed outside the remit of the normal range of sanctions.
- 2.3. A student can be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year) or permanently. A fixed term exclusion does not have to be for a continuous period and should be for the shortest time possible.
- 2.4. The school will provide appropriate work for a student to do for the first five days of any exclusion period.
- 2.5. The Headteacher and the governing body will always take account of their statutory duties in relation to special educational needs (SEND) when administering the exclusion process, having due regard to the SEND Code of Practice.

### **3. Permanent exclusion:**

- 3.1. The decision to exclude a student permanently will only be taken:
  - 3.1.1. In response to a serious breach or persistent breaches of the school's behaviour policy; and
  - 3.1.2. Where allowing the student to remain in school would seriously harm the education or welfare of the student or others in the school.
- 3.2. When considering making a decision to exclude, the Headteacher should give the student the opportunity to present their case and be mindful of any contributory factors that are identified at the time or subsequent to taking the decision. A statement will be taken from the student as a matter of course.
- 3.3. All permanent exclusions will be notified to the CEO and local authority immediately and the schools will use: [outofschool@lincolnshire.gov.uk](mailto:outofschool@lincolnshire.gov.uk) email for this purpose.

### **4. Informing the parents of an exclusion:**

- 4.1. Once the decision has been taken to exclude, the Headteacher will contact the parents.
- 4.2. They should be informed of the following information:
  - 4.2.1. the decision, the period of exclusion and reasons for it;
  - 4.2.2. their right to make representation to the governing body and how to do that and how they can involve their child in the process;
  - 4.2.3. the arrangements for sending work home;
  - 4.2.4. be reminded that they are legally required to ensure that their child is not present in a public place during school hours without reasonable justification;
  - 4.2.5. any arrangements for alternate education provision if appropriate;
  - 4.2.6. the arrangements for reintegrating the student back into school once the fixed term exclusion period is over.
- 4.3. All this information will be provided in writing following a telephone call to parents; the telephone call will be made prior to the end of the school day.
- 4.4. A help sheet should accompany the letter drawing attention to relevant sources of free and impartial information including:
  - 4.4.1. a link to the statutory guidance on exclusions;
  - 4.4.2. a link to the Coram Children's Legal Centre ([www.childrenslegalcentre.com](http://www.childrenslegalcentre.com)) 08088020008;
  - 4.4.3. a link to local services such as [www.parentpartnership.org.uk](http://www.parentpartnership.org.uk)

### **5. Informing the Governing Body:**

All exclusions are reported to the Local Governing Body and Trustees once per term. The reasons for any exclusion and the length of any period of exclusion will form part of the report. In the first instance the Headteacher will ensure that a copy of all correspondence regarding the exclusion is sent to the Chair of Governors, CEO and to the Local Authority (LA). For an exclusion of 5 days or more or for an exclusion which results in a student missing a public examination, the Headteacher of the relevant school must notify the Local Governing Body, CEO and the LA.

### **6. Making arrangements for the education of excluded students:**

The Local Governing Body will make suitable arrangements for full time education of any student (of compulsory school age) after the fifth day of any fixed term exclusion. The school will take reasonable steps to set appropriate work for the student and to provide feedback on it. In the case of a permanent exclusion, that duty falls to the LA.

## **7. Students returning to school following a fixed-term exclusion:**

- 7.1. In all instances, students returning from a fixed term exclusion will be required to attend a reintegration interview with a senior member of staff with their parent or carer present.
- 7.2. In some incidents, on the return from a Fixed Term Exclusion, students will be required to attend additional courses/ student support within the school so that a phased reintegration of the can take place.

## **Section B:**

### **1. The role of the Local Governing Body to consider exclusions:**

- 1.1. The Local Governing Body has a duty to consider parents' representations about any exclusion; this function is delegated to the Discipline Committee comprising of at least 3 governors. A useful flow diagram taken from the DfE guidance (p32) is attached as an appendix to this policy.
- 1.2. The Discipline Committee is required to meet to consider cases where the period of exclusion exceeds 5 days.
- 1.3. In the case of a fixed term exclusion which does not bring a student's total of school days of exclusion to more than 5 in a term, the Discipline Committee must consider representations made by parents, but they are not required to arrange a meeting with parents, nor can the Discipline Committee direct the school to reinstate the student.
- 1.4. For a period of exclusion of over 5 days but no more than 15 in a single term, the Local Governing Body are required to consider reinstatement of the student within 50 days of receiving the notice of the exclusion if requested to do so by the parents.
- 1.5. The Local Governing Body must consider the reinstatement of an excluded student within 15 school days of receiving notice of the exclusion if:
  - 1.5.1. the exclusion is permanent;
  - 1.5.2. the fixed term exclusion brings the student's total number of school days of exclusion to more than 15 in any term;
  - 1.5.3. it would result in the student missing a public examination.
- 1.6. Parents and the Headteacher will be invited to any meeting held by the governors to consider the reinstatement of a student. As an academy, the LA will only attend if they are invited by the parents.

### **2. Procedural steps the Discipline Committee will take when preparing to consider an exclusion decision:**

- 2.1. Procedural steps:
  - 2.1.1. not discuss the exclusion with any party outside of the meeting;
  - 2.1.2. ask for written evidence in advance of the meeting;
  - 2.1.3. circulate any written evidence and information, including a list of those who will be present, to all parties at least 5 school days in advance of the meeting;
  - 2.1.4. allow parents and students to be accompanied by a friend or representative identify the steps they will take to enable and encourage an excluded student to attend the meeting and to speak on his or her own behalf;
  - 2.1.5. establish the facts and apply the civil standard of proof (on the balance of probabilities it is more likely than not that a fact is true);

- 2.1.6. take clear minutes of the meeting as a record of the evidence that was considered by the Discipline Committee. These minutes should be available to all parties on request;
  - 2.1.7. ask all parties to withdraw before making their decision. The Clerk can remain as a reference point for notes taken in the meeting and the wording of the decision letter;
  - 2.1.8. consider, in reaching their decision, whether the decision to exclude was lawful, reasonable and procedurally fair.
- 2.2. The Discipline Committee can uphold an exclusion or direct the reinstatement of the student immediately or on a particular date. The Local Governing Body is required to notify parents, the Headteacher, the CEO and the LA of its decision and the reasons for it, in writing and without delay.

***There is no automatic right for an excluded student to take an examination on the excluding school's site, but the Local Governing Body can consider whether it would be appropriate to exercise discretion to allow this happen for the sole purpose of taking a public examination.***

### **3. Permanent exclusion: the Local Governing Body's duty to notify:**

In addition to notifying parents, the Headteacher, the CEO and the LA of its decision and the reasons for it, the Local Governing Body must also include the following information in the case of permanent exclusion:

- i. the fact it is a permanent exclusion;
- ii. give notice of the right of parents to ask for the decision to be reviewed by an independent review panel.

### **4. Independent Review Panel:**

4.1. The Local Governing Body should also include information about the independent review process:

- 4.1.1. the date by which an application for a review must be made (15 school days from the date the written notice of the governors' decision was given to parents);
- 4.1.2. the name and address to whom an application for a review should be submitted;
- 4.1.3. that any application should set out the grounds on which the review is being requested;
- 4.1.4. Parents have the right to have a SEND expert attend the independent review regardless of whether the excluded student has recognised special educational needs. There is no cost to parents for this appointment; details of the role of the SEND expert need to be explained to parents and that they would need to make clear in their application for a review if they wished a SEND expert to be appointed;
- 4.1.5. parents at their own expense, can appoint someone to make written and/or oral presentations to the panel;
- 4.1.6. parents can also bring a friend with them to the review;
- 4.1.7. parents have a right to make a claim under the Equality Act 2010 to the First-tier tribunal (SEN and disability) or to the County Court for other forms of discrimination if they believe that the exclusion has occurred as a result of discrimination;
- 4.1.8. the Local Governing Body should also draw parents' attention to relevant sources of free and impartial advice when the decision to uphold an exclusion is made, for example the statutory guidance on exclusions, the guidance on making a claim of discrimination to the first-tier tribunal, the Coram Children's Legal Centre and any local sources such as the Parent partnership.

### **5. The Academy Trust's duty to arrange an independent review panel:**

Section 8 of "Exclusions from maintained schools, Academies and pupil referral units in England; a guide for those with legal responsibilities in relation to exclusion" (DfE, 2012) sets out a detailed guide to the law in relation to the circumstances under which an independent review is required and the duties and responsibilities of The Horncastle Education Trust to arrange one.

## **6. Attendance and registration in the case of permanent exclusion:**

- 6.1. The Headteacher must remove a student's name from the school roll if:
- 6.2. 15 school days have passed since the parents were notified of the Local Governing Body's decision to uphold a permanent exclusion (and no application has been made for an independent review) or the parents have stated in writing that they will not be applying for an independent review.
- 6.3. Whilst an excluded student's name remains on the school roll, they should be marked with the appropriate attendance code. When attending alternative provision, they should be marked with a 'B' and an 'E' should be used if they are not attending alternative provision.

## **Section C**

### **1. The legislation that this policy relates to:**

- The Education Act 2002, as amended by the Education Act of 2011
- The School Discipline (Pupil Exclusions and Reviews) (England) regulations 2012
- The Education and Inspections Act 2006
- The Education (Provision of Full-time Education for Excluded pupils) (England) regulations 2007

### **2. Documents underpinning this policy:**

- "Exclusions from maintained schools, Academies and pupil referral units in England; a guide for those with legal responsibilities in relation to exclusion" DfE, 2012
- The Horncastle Education Trust Aims

#### **2.1. Queen Elizabeth's Grammar School:**

- The School Aims
- The Behaviour Management Policy
- Behaviour management referral system (QEGS)
- Behaviour – expectations and rewards (QEGS)

#### **2.2. Banovallum School:**

- The School Values (Banovallum)
- School Behaviour Policy (Banovallum)
- Student Code of Conduct (Banovallum)

#### **2.3. Frithville and New York Primary School:**

- Anti-bullying Policy
- Behaviour Policy
- Drug Education and Incident Policy

3. Duties of the Local Governing Body - flow diagram taken from the DfE guidance (p32):

## Annex A – A summary of the governing body’s duties to review the head teacher’s exclusion decision

