



# **SUSPENSION AND PERMANENT EXCLUSION POLICY**

## **MIDDLEWICH HIGH SCHOOL**

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## **1. Aims**

Our school aims to ensure that:

- The exclusions process is applied fairly and consistently
- The exclusions process is understood by governors, staff, parents / carers and students
- Students in school are safe and happy
- Students do not become NEET (not in education, employment or training)
- All suspensions and permanent exclusions are carried out lawfully

## **2. Legislation and statutory guidance**

This policy is based on statutory guidance from the Department for Education: Exclusion from maintained schools, academies and student referral units (PRUs) in England.

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

- Section 51a of the Education Act 2002, as amended by the Education Act 2011
- The School Discipline (Student 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 students
- Section 579 of the Education Act 1996, which defines 'school day'
- The Education (Provision of Full-Time Education for Excluded Students) (England) Regulations 2007, as amended by The Education (Provision of Full-Time Education for Excluded Students) (England) (Amendment) Regulations 2014
- The Equality Act 2010
- Children and Families Act 2014

### 3. The decision to exclude

Only the headteacher, or acting headteacher, can exclude a student from school. Any permanent exclusions will be taken as a last resort.

A decision to suspend or exclude a student will be taken only:

- In response to serious or persistent breaches of the school's behaviour policy
- If allowing the student to remain in school would seriously harm the education or welfare of others
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Before deciding whether to suspend or exclude a student, 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 student to give their version of events
- Consider if the student has special educational needs (SEND) or LAC

'Informal' or 'unofficial' suspensions, such as sending students home 'to cool off', are not allowed, even if they are with the agreement of parents / carers. Any suspension of a student, even for short periods of time, must follow the formal process including being formally recorded. Any fixed-period exclusion must have a stated end date.

### 4. Definition

For the purposes of suspensions, the 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. There are two sessions to each school day; am and pm.

Types of suspensions;

- Internal suspension in Middlewich High School's BSR room, supervised by staff
- Internal suspension based at a partner school, in their isolation area
- Suspension – when a student is removed from the school for a fixed period. This was previously referred to as a 'fixed-term exclusion'.
- Permanent exclusion – when a student 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 Board requires a student to attend another education setting temporarily, to improve their behaviour.
- Managed move – when a student 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.

## 5. Roles and responsibilities

### The Headteacher

#### Informing parents /carers

Whenever a headteacher suspends or permanently excludes a student they must, without delay, notify parents / carers or the excluded student (if they are 18 years or older) of the period of the suspension or permanent exclusion and the reason(s) for it.

They must also, without delay, after their decision, provide parents with the following information in writing:

- the reason(s) for the suspension or permanent exclusion;
- the period of a suspension or, for a permanent exclusion, the fact that it is permanent;
- parents' / carers' right to make representations about the suspension or permanent exclusion to the Governing Board (in line with the requirements set out in paragraphs 97 to 107) and how the student may be involved in this;
- parents' / carers' (or an excluded student if they are 18 years or older) right to make a request to hold the meeting via the use of remote access and how and to whom to make this request (further information on other information this should include can be found in Annex A: Key principles when conducting meetings via the use of remote access);
- how any representations should be made.

The Headteacher will also inform

- The child's social worker if the child has one, **and**
- The VSH if the child is a LAC

The length of a fixed-term suspension or, for a permanent exclusion, the fact that it is permanent

- Information about parents' / carers' right to make representations about the exclusion to the Governing Board and how the student may be involved in this
- Where there is a legal requirement for the Governing Board to meet to consider the reinstatement of a student, and that parents / carers have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend. Parents / carers can request that the meeting be held remotely
- if a student has a social worker, or if a student is looked-after, the headteacher must now, also without delay after their decision, notify the social worker and/or VSH, as applicable.

The headteacher will also notify parents / carers 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 / carers are legally required to ensure that their child is not present in a public place during school hours without a good reason. 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 when notifying parents / carers 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 student 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' / carers' consent.

In some cases, where further evidence has come to light, a subsequent fixed period of exclusion may be issued to begin immediately after the first period ends; or a permanent exclusion may be issued to begin immediately after the end of the fixed period.

Whilst a student is excluded work will be set for completion.

## **Cancelling suspensions and permanent exclusions**

The headteacher may cancel any exclusion that has already begun (or one that has not yet begun), but this can only happen when the Governing Board has not yet met to consider whether the student should be reinstated. Where an exclusion is cancelled:

- The headteacher will notify the parents / carers, the Governing Board, the LA and the student's Social Worker and VSH as applicable, without delay. The notification must also provide the reason for the cancellation;
- The Governing Board's duty to consider reinstatement ceases, and there is no requirement to hold a meeting to consider reinstatement;
- Parents / carers (or the excluded student if they are 18 years or older) will be offered the opportunity to meet with the headteacher to discuss the circumstances that led to the exclusion being cancelled which should be arranged without delay;
- The student will be allowed back into the school without delay.
- Any days spent out of school as a result of any exclusion, prior to the cancellation will count towards the maximum of 45 school days permitted in any school year.

A permanent exclusion cannot be cancelled if the student has already been excluded for more than 45 school days in a school year or if they will have been so by the time the cancellation takes effect.

## **Informing the Governing Board and local authority**

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
- Suspensions/exclusions which would result in the student being excluded for more than 5 school days (or more than 10 lunchtimes) in a term
- Suspensions/exclusions which would result in the student missing a public examination

The Headteacher will also inform

- The child's social worker if the child has one, **and**
- The VSH if the child is a LAC

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

For all other exclusions, the headteacher will notify the Governing Board once a term.



## **5.2 The Governing Board**

Responsibilities regarding suspensions and Permanent exclusions are delegated to a panel known as 'The Exclusion Panel', which will consist of at least 3 governors.

The Exclusion Panel has a duty to consider the reinstatement of an excluded student (see section 6).

Within 14 days of receipt of a request, the Governing Board will provide the secretary of state and the LA with information about any suspensions in the last 12 months.

For a fixed-period suspension of more than 5 school days, the Governing Board will arrange suitable full-time education for the student. This provision will begin no later than the sixth day of the exclusion.

Provision does not have to be arranged for students in the final year of compulsory education who do not have any further public examinations to sit.

## **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 student**

The Exclusion Panel will consider the reinstatement of an excluded student 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 student's total number of school days of exclusion to more than 15 in a term
- It would result in a student missing a public examination

If requested to do so by parents / carers, the Exclusion Panel will consider the reinstatement of an excluded student within 50 school days of receiving notice of the exclusion if the student 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 student missing a public examination, the Exclusion Panel will consider the reinstatement of the student before the date of the examination. If this is not practicable, the chair of the Governing Board (or the vice-chair where the chair is unable to make this consideration) will consider the exclusion independently and decide whether or not to reinstate the student.

The Exclusion Panel can either:

- Decline to reinstate the student, or
- Direct the reinstatement of the student immediately, or on a particular date

In reaching a decision, the Exclusion 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.

Minutes will be taken of the meeting, and a record of evidence considered kept. The outcome will also be recorded on the student's educational record.

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

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

- The fact that it is permanent
- Notice of parents' / carers' 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 student's SEND are considered to be relevant to the exclusion
  - That, regardless of whether the excluded student has recognised SEND, parents / carers have a right to require the LA to appoint a SEND expert to attend the review
  - Details of the role of the SEND expert and that there would be no cost to parents / carers for this appointment
  - That parents / carers must make clear if they wish for a SEND 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 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 / carers apply for an independent review, the Sir John Brunner Foundation will arrange for an independent panel to review the decision of the Governing Board not to reinstate a permanently excluded student.

Applications for an independent review must be made within 15 school days of notice being given to the parents / carers by the Exclusion Panel of its decision to not reinstate a student.

A panel of 3 members will be constituted with representatives from each of the categories below.

- 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 head teachers 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 of the Governing Board of the excluding school
- Are the headteacher of the excluding school, or have held this position in the last 5 years
- Have, or at any time have had, any connection with the LA, school, Governing Board, parents / carers or student, 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 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.

## **8. School registers**

A student's name will be removed from the school admissions register if:

- 15 school days have passed since the parents / carers were notified of the exclusion panel's decision to not reinstate the student and no application has been made for an independent review panel, or
- The parents / carers 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 Governing Board will wait until that review has concluded before removing a student's name from the register.

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

## **9. Returning from a suspension**

Following a suspension a reintegration meeting will be held involving the student, parents / carers, a member of senior staff and other staff, where appropriate.

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

- Agreeing a behaviour contract (Student Support Program, PSP)
- Supported phased return using Reflection
- Meetings with external agencies e.g. CAMHS, SWANS, PCSOs
- Any relevant mediated restorative meeting with students and/or staff

## **10. Monitoring arrangements**

- The school will collect data on the following:
- Attendance, permanent exclusions and suspensions
- Use of student referral units, off-site directions and managed moves
- Anonymous annual surveys of staff, students, governors and other stakeholders on their perceptions and experiences
- The data will be analysed every half term by the Deputy Headteacher who will report back to the headteacher.

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 students are identified by this analysis, the school will review its policies in order to tackle it.

### **11. Managed Moves**

A Managed Move may be considered by the school. This is where there is a transfer a student to another school, if there is agreement between everyone involved, including the parents / carers and the admission authority for the new school.

The school cannot force a parent to remove their child permanently from the school or to keep their child out of school for any period of time without formally excluding.

The Cheshire East Managed Move protocol is observed.

<https://www.cheshireeast.gov.uk/schqools/school-attendance/managed-school-moves.aspx>

### **13. Internal Isolation in the Behaviour Support Room and Alternative Provision**

The school uses the sanction of Internal Isolation as an interim sanction measure for serious breaches of the School Code of Conduct. A student may be at risk of Internal Isolation for serious offences or continual problems despite other strategies having been used, at the discretion of the Senior Leadership Group. A student placed in Internal isolation will attend school from 8.40am - 4:00pm, or parts of the day as determined necessary.

As an alternative to a suspension the school works in partnership with other local schools to arrange education at a different school establishment for a fixed period of time. This is called Alternative Provision (AP). This is done at the discretion of the Headteacher of both schools and may involve an alternative start and end time for the day. Parents / Carers are responsible for transportation to and from the receiving school throughout the time of the AP. This sanction is also used from the 6<sup>th</sup> Day of a Fixed Term Exclusion. For Cared for Children AP will be sought from day 1 of a fixed term exclusion.

### **14. Links with other policies**

This exclusions policy is linked to our

- Behaviour policy
- SEND policy and information report
- Attendance Policy
- Anti-bullying Policy

### **Appendix 1: Independent Review Panel (IRP) training**

The Sir John Brunner Foundation 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

### **Appendix 2: Guidance for Parents / carers**

Cheshire East LA have produced a guidance leaflet for parents / carers whose children have been excluded from school.

A copy of this guidance will be made available on request to the school