



Policy Number

17

## Exclusion Policy

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## **1. Introduction**

Ebor Academy Trust and its member academies are committed to valuing diversity and to equality of opportunity. We aim to create and promote an environment in which pupils, parents/carers and staff are treated fairly and with respect, and feel able to contribute to the best of their abilities.

Ebor Academy Trust, its member academies and local governing bodies recognise that it is unlawful to take into account anyone's gender, marital status, colour, race, nationality, ethnic or national origin, disability, religious beliefs, age, or sexual orientation.

We aim to include, not exclude, and we approach all challenging behaviour in a supportive, holistic and positive way. We recognise that such behaviour can sometimes be symptomatic of a real, deeper need for our support and understanding. All children can go through times of inappropriate behaviour, and we strive to never "give up" easily on a child as we recognise that each child is an individual and has a unique contribution to make to school life and we want to support them to achieve this. It is our belief that we always seek to understand what the underlying causes to the behaviour are and recognise that it is often the case that behaviour is a form of communication and we need to look for what are sometimes hidden messages within that.

A decision to exclude a pupil, either for a fixed period or permanently is seen as a last resort. The physical and emotional health of our children and staff is our primary concern, and we therefore accept that there will be occasions and situations whereby exclusion may be a necessary course of action. Where possible we will look to use other strategies but where this is not possible or where other strategies have been exhausted then we will look to implement our exclusion policy.

In the event of exclusion the school will always seek to work in partnership with the parents or carers of the child. It is understood that this will be an emotive issue but it is also an expectation that the school and home will work sensitively and positively in partnership to strive to achieve the best possible outcome for the child. The school will work transparently to ensure that the parents receive effective and timely communication.

## **2. Legal framework**

2.1 This policy has due regard to the related statutory legislation including, but not limited to, the following:

- Education Act 2002
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- Education and Inspections Act 2006
- Education Act 1996
- The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007
- The European Convention on Human Rights (ECHR)
- Equality Act 2010

2.2 This policy also has due regard to statutory and non-statutory guidance, including, but not limited to, the following:

- DfE (2017) 'Exclusion from maintained schools, academies and pupil referral units in England'
- DfE (2016) 'Behaviour and discipline in schools'
- DfE (2015) 'Special educational needs and disability code of practice: 0 to 25 years'
- DfE (2018) 'Mental health and behaviour in schools'

### **3. Related Policies**

Ebor Academy Trust and its member academies are responsible for communicating to pupils, parents/carers and staff its expectations of standards of conduct. A range of policies and procedures are in place to promote good behaviour and appropriate conduct.

These are:

- Behaviour Policy;
- Anti-Bullying Policy;
- Child protection and safeguarding policy

No exclusion will be initiated without first exhausting other strategies or, in the case of a serious single incident, a thorough investigation.

### **4. Roles and responsibilities**

4.1 Ebor Academy Trust is responsible for:

- a) Having due regard to the relevant statutory guidance when carrying out its duties in relation to the education of LAC.
- b) Arranging suitable full-time education for any pupil of compulsory school age excluded permanently, in coordination with the school.
- c) Reviewing and reassessing pupils' needs in consultation with their parents where they have an EHC plan and are excluded permanently, with a view to identifying a new placement.
- d) Arranging for an independent review panel hearing to review the decision of the governing board not to reinstate a permanently excluded pupil where required.
- e) Arranging the hearing without delay at a time, date and venue convenient for all parties.
- f) Ensuring the independent review panel consists of three or five members as appropriate, which represent the required categories.
- g) Ensuring the Trust Lead for Behaviour and Wellbeing supports the panel in their decision making ensuring all legal guidance is adhered to.
- h) If requested by parents, appointing a SEND expert to attend the panel and covering the associated costs of this appointment.
- i) Support the school with pupils who are experiencing repeat exclusions and the early intervention strategies in line with the school's Behaviour Policy are not effectively meeting the pupil's needs.

4.2 The governing board is responsible for:

- a) Providing information to the Secretary of State and LA about any exclusions within the last 12 months.
- b) Arranging suitable full-time education for any pupil of compulsory school age excluded on a fixed-term basis.
- c) Considering parents' representations about exclusions within 15 school days of receiving notice if the appropriate requirements are met.
- d) Where an exclusion would result in a pupil missing a public examination or test, considering the exclusion before this date.
- e) Considering whether it would be appropriate for a pupil to be permitted onto the school premises to sit the public examination or test.
- f) Arranging the representation meeting at a time and date convenient to all parties, but in compliance with the statutory time limits.
- g) Adhering to its responsibilities to consider the reinstatement of pupils.

- h) Considering the interests and circumstances of the excluded pupil, including the circumstances in which they were excluded, and have due regard to the interests of others at the school.
- i) Using the civil standard of proof (based on the 'balance of probabilities', it is more than likely that the fact is true) when establishing the facts relating to an exclusion.
- j) Ensuring clear minutes are taken of the representation meeting.
- k) Noting the outcome of the representation meeting on the pupil's education record, along with copies of relevant papers for future reference.
- l) Notifying the pupil's parents, the headteacher and LA of its decision and the reasons for it, without delay.
- m) Where appropriate, informing parents of where to apply for an independent review panel.
- n) Informing parents of relevant sources of information.
- o) Ensuring a pupil's name is removed from the school admissions register, where appropriate.
- p) Reconvening within 10 school days to reconsider reinstatement of a pupil where directed to do so by the exclusions review panel.

#### 4.3 The headteacher is responsible for:

- a) Implementing good levels of discipline to ensure all pupils can benefit from the opportunities provided by education and to minimise potential exclusions.
- b) Applying the civil standard of proof when establishing the facts in relation to an exclusion.
- c) Complying with their statutory duties in relation to pupils with SEND when administering the exclusion process, as outlined in the Special Educational Needs and Disabilities (SEND) Policy.
- d) Considering any contributing factors that are identified after an incident of poor behaviour has occurred, e.g. if a pupil has suffered bereavement, bullying or has a mental health issue.
- e) Considering the use of a multi-agency assessment for a pupil who demonstrates persistent disruptive behaviour.
- f) Reviewing the effectiveness of exclusions as a sanction, e.g. if a pupil has received multiple exclusions or is approaching the legal limit for exclusions in an academic year.
- g) Considering what extra support may be needed to identify and address the needs of individual pupils, particularly those with SEND, eligible for FSM, LAC and those from certain ethnic groups.
- h) Engaging effectively with parents in supporting the behaviour of pupils with additional needs.
- i) Determining whether a pupil will be excluded on disciplinary grounds.
- j) Withdrawing any exclusions that have not been reviewed by the governing board, where appropriate.
- k) Ensuring any decision to exclude is lawful, rational, reasonable, fair and proportionate.
- l) Complying with the requirements of the Equality Act 2010 when deciding whether to exclude a pupil.
- m) Ensuring they have considered their legal duty of care when sending a pupil home following an exclusion.
- n) Making the decision to exclude based on the evidence available at the time, regardless of any police investigation and/or criminal proceedings.
- o) Notifying a pupil's parents without delay where the decision is taken to exclude the pupil, including the days on which the parents must ensure the pupil is not present in a public place at any time during school hours, as well as any other necessary information statutorily required.
- p) Ensuring that all information provided to parents is clear and easily understood.
- q) Notifying the governing board and LA of their decision to exclude a pupil where appropriate, as well as the pupil's home authority if required.

- r) Notifying the governing board once per term of any exclusions not already notified.
- s) Organising suitable work for excluded pupils where alternative provision cannot be arranged.

## **5. Reasons for exclusion**

- a) Persistent disruptive behaviour
- b) Physical harm against an adult
- c) Physical harm against a pupil
- d) Verbal abuse or threatening behaviour against an adult
- e) Verbal abuse or threatening behaviour against a pupil
- f) Damage to property
- g) Bullying
- h) Total defiance (cumulative)
- i) Extreme, threatening behaviour to another pupil / adult
- j) Sexual abuse or harassment.

Any temporary fixed-term exclusion will be at the discretion of the Headteacher. Usually in consultation with other members of the senior leadership team (particularly if they were involved in investigating the incident). Consultation with the Local Governing Body will be as and when deemed appropriate. Any pupil that has been excluded for more than five days per term must be referred to the Trust Lead for Behaviour and Wellbeing for further advice and guidance. If that pupil is subject to further exclusion (more than five days) this must be a decision made following consultation with the Trust Lead for Behaviour and Wellbeing. A pupil may be excluded for one or more fixed periods, up to a maximum of 45 school days in a single academic year. Where a pupil is reaching the maximum mark the Trust Lead for Behaviour and Wellbeing will chair a meeting with the school and any relevant professionals alongside parents to look at what further support can be offered to the pupil.

## **6. Types of Exclusion**

### **6.1 Temporary fixed-term exclusion**

A temporary exclusion should be for the shortest time necessary. Ofsted evidence suggests that 1-3 days is usually enough to secure benefits without adverse educational consequences.

### **6.2 Persistent or cumulative problems**

Exclusion for a period of time from half a day to 5 days for persistent or cumulative problems would be imposed only when the academy had already offered and implemented a range of support and behaviour management strategies. These strategies are outlined in the Behaviour Policy.

### **6.3 Single incident**

Temporary fixed-term exclusion may be used in response to a serious breach of the academy's rules and policies. In such cases the Headteacher of the respective academy will investigate the incident thoroughly and consider all evidence to support the allegation, taking into account the school's behaviour and conduct policy. The pupil will be encouraged to give his/her version of events and potentially any other witnesses to the incident will also be spoken with. Following a thorough investigation a decision will be made as to what level of exclusion may be required (in terms of number of days)

#### 6.4 Permanent exclusion

A decision to exclude a pupil permanently should only be taken:

- in response to a serious breach or persistent breaches of the school's behaviour policy; and
- where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

A permanent exclusion is a very serious decision and the Headteacher will consult with the Trust Lead for Behaviour and Wellbeing and executive hub lead before making such a decision. The Local Governing Body will be informed of any potential permanent exclusion. The school will make every effort through the Trust Lead for Behaviour and Wellbeing to engage a multi agency response and support from the LA if a permanent exclusion is deemed necessary.

As with a temporary fixed-term exclusion, it will follow a range of strategies and be seen as a last resort, or it will be in response to a very serious breach of academy rules and policies such as;

- a) Serious actual or threatened violence against another pupil or a member of staff
- b) Failure to follow school rules – defiance
- c) Possession or use of an illegal drug on school premises
- d) Persistent bullying
- e) Persistent racial harassment
- f) Peer on peer abuse
- g) An act of sexual harassment and or abuse.

#### 6.5 The decision to exclude

If the Headteacher decides to exclude a pupil he/she will:

- a) Ensure that there is sufficient recorded evidence to support the decision;
- b) explain the decision to the pupil; contact the parents/carers, explain the decision and ask that the child be collected; send a letter to the parents/carers confirming the reasons for the exclusion, whether it is a permanent or temporary exclusion; the length of the exclusion and any terms or conditions agreed for the pupil's return;
  - i. In cases of more than a day's exclusion, ensure that appropriate work is set and that arrangements are in place for it to be marked;
  - ii. Plan how to address the pupil's needs and integration back into their class on his/her return;
  - iii. Plan and carry out a reintegration meeting with parents/carers and pupil on his/her return.

### 7. The headteacher's power to exclude

- 7.1 Only the headteacher has the power to exclude a pupil from the school, and is able to decide whether this is on a fixed-period or permanent basis. All exclusions will only be issued on disciplinary grounds.

- 7.2 The headteacher is able to exclude pupils from the premises where their behaviour is disruptive during lunchtime. All lunchtime exclusions will be counted as half of a school day.
- 7.3 The headteacher is able to consider a pupil's disruptive behaviour outside of the school premises as grounds for exclusion, in accordance with the school's Behavioural Policy.
- 7.4 Any decision made to exclude a pupil will be lawful, proportionate and fair, with respect to legislation relating directly to exclusions.
- 7.5 All exclusions will be formally recorded and all relevant paperwork will be issued to the local authority as well as Ebor Academy Trust.
- 7.6 When sending a pupil home following any exclusion, the headteacher will ensure that they exercise their duty of care at all times and will always inform the parents.
- 7.7 The headteacher will apply the civil standard of proof when responding to the facts relating to an exclusion, i.e. that 'on the balance of probabilities' it is more likely than not that the facts are true.
- 7.8 The headteacher may withdraw any exclusion that has not already been reviewed by the governing board.
- 7.9 At all times, the headteacher will take into account their legal duties under the Equality Act 2010 and the 'Special educational needs and disability code of practice: 0 to 25 years', ensuring that they do not discriminate on any grounds, e.g. race, sex, disability, and will not increase the severity of a pupil's exclusion on these grounds.
- 7.10 The headteacher will not issue any 'informal' or 'unofficial' exclusions, e.g. sending a pupil home to 'cool-off', regardless of whether or not the parents have agreed to this.
- 7.11 The headteacher will not use the threat of exclusion as a means of instructing parents to remove their child from the premises.
- 7.12 If the Headteacher decides to exclude a pupil he/she will:
  - a) Ensure that there is sufficient recorded evidence to support the decision;
  - b) Explain the decision to the pupil; contact the parents/carers, explain the decision and ask that the child be collected; send a letter to the parents/carers confirming the reasons for the exclusion, whether it is a permanent or temporary exclusion; the length of the exclusion and any terms or conditions agreed for the pupil's return;
    - i. In cases of more than a day's exclusion, ensure that appropriate work is set and that arrangements are in place for it to be marked;
    - ii. Plan how to address the pupil's needs and integration back into their class on his/her return;
    - iii. Plan and carry out a reintegration meeting with parents/carers and pupil on his/her return.



## **8. Safeguarding**

An exclusion will not be enforced if doing so may put the safety of the pupil at risk. In cases where parents/carers will not comply by, for example, refusing to collect the child, the child's welfare is the priority. In this situation, depending on the reason for exclusion, the academy may consider an internal exclusion until the end of the day, implementing the original exclusion decision from the time the child is collected from the academy. In more severe circumstances the academy may contact Social Care and/or the Police to safely take the pupil off site.

## **9. Behaviour Outside the Academy**

Pupils' behaviour outside the academy on academy business e.g. on trips, at sports fixtures, is subject to the academy's Behaviour Policy. Unacceptable behaviour in such circumstances will be dealt with in accordance with the school's Behaviour Policy and thus be subject to any potential consequences or next steps.

## **10. Pupils with Special Educational Needs and Disabled Pupils**

The academy must take account of any special educational needs when considering whether or not to exclude a pupil.

We have a legal duty under the Disability Discrimination Act 2005 as amended not to discriminate against disabled pupils by excluding them from the academy for behaviour related to their disability. The Headteacher should ensure that reasonable steps have been taken by the academy to respond to a pupil's disability so the pupil is not treated less favourably for reasons related to the disability. This being said if the incident is serious enough to warrant an exclusion this will still be the course of action that the school takes. Where possible and appropriate support services will be engaged in order to support a successful reintegration.

## **11. Marking Attendance Registers following Exclusion**

When a pupil is excluded temporarily, he/she should be marked as absent using Code E.

## **12. Managed Move/Fresh start**

In cases where the Headteacher and parents/carers agree that the progress of the pupil has been unsatisfactory and the pupil is unwilling or unable to profit from the educational opportunities offered, or if a parent has treated Ebor Academy Trust, a member academy or a member of staff unreasonably the Headteacher may require the parents/carers to remove the pupil at the end of a term. This is not an exclusion and, in such cases, the Headteacher will consult with the local authority on what other options may be available for the pupil. The school will work in partnership with the parent to look into fresh start options. The headteacher will also ensure support is sought from the Trust Lead for Behaviour and Wellbeing to ensure the best care and guidance is given to the child and family through multi- agency liaison and a formal review meeting to discuss the best next steps.

## **13. Removal from the Academy for Other Reasons**

The Headteacher may send a pupil home, after consultation with that pupil's parents/carers and a health professional as appropriate, if the pupil poses an immediate and serious risk to the health and safety of other pupils and staff, for example because of a diagnosed illness such as a notifiable disease. This is not an exclusion and should be for the shortest possible time.

#### **14. Independent review panel following a permanent exclusion**

- 14.1 The Trust will review the Local Governing Body's decision not to reinstate a permanently excluded pupil if the parents submit their application for this within the required time frame.
- 14.2 The Trust will constitute an independent review panel of three or five members that represent the following categories:
- a) A lay member to chair the panel. This individual will not have worked in any school in a paid capacity.
  - b) A current or former school governor who has served for at least 12 consecutive months in the last five years.
  - c) A headteacher or member of the Ebor Academy Trust leadership team with significant experience in school behaviour and safeguarding management within the last five years.
- 14.3 Parents are required to submit their applications within:
- a) 15 school days of the Local Governing Body's notification of their decision.
  - b) 15 school days of the final determination of a discriminatory claim made under the Equality Act 2010.

Any application made outside of this timeframe will not be reviewed.

- 14.4 Parents are able to request an independent panel review even if they did not make a case to, or attend, the governing board's initial consideration of the exclusion.
- 14.5 The Trust will adhere to all statutory guidelines when conducting an independent panel review, as outlined in the DfE's statutory guidance document 'Exclusion from maintained schools, academies and pupil referral units in England' 2017.
- 14.6 The Trust Lead for Behaviour and Wellbeing will be informed prior to the intention of any permanent exclusion and will ensure the school is appropriately supporting the child and family as well as working within all legal framework and adhering to best practice.

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## 15. Procedure for Appeal

If parents/carers wish to appeal the decision to exclude, the matter will be referred to the Trustees of the academy trust to which the incident relates and will be handled through Ebor Academy Trust appeal procedure.

