

EXCLUSION POLICY

Date of issue: 05/10/2021

1. What this policy covers

This policy reflects the DfE guidance and outlines the practice for all academies within The Two Counties Trust in respect of student exclusions.

Academies within The Two Counties Trust will only use exclusion as a final sanction, where all other strategies have been tried, without lasting success or where the student has committed a serious one-off incident.

This policy must be read in conjunction with the DfE's *Exclusion from maintained schools, academies and pupil referral units in England. Statutory guidance for those with legal responsibilities in relation to exclusion. September 2017* and during the Covid-19 Pandemic, any temporary guidance which the DfE puts into place, which may affect timescales and the process. Statutory guidance, which at the time of writing is:

Changes to the school suspension and permanent exclusion process during the coronavirus (COVID-19) outbreak. Updated 10 September 2021.

The Exclusion Policy should also be read in conjunction with the academy's Behaviour Policy.

2. Definition of exclusion

Permanent exclusion means the student is expelled from the academy where they are on roll.

A fixed term exclusion is for a specific period of time. A student may be excluded for one or more fixed periods up to a maximum of 45 school days in any one academic year.

3. Who can exclude and under what circumstances

Normally, only the Headteacher can permanently exclude a student.

Exceptionally, in the longer-term absence of the Headteacher, the CEO of the Trust may delegate this duty to the Deputy Headteacher.

The Headteacher and the Deputy Headteacher have the authority to issue a fixed term exclusion.

It would be usual for a Headteacher (or their Deputy where appropriate) to discuss with the Chief Executive Officer of The Two Counties Trust before any decision to issue a permanent exclusion is made. The decision to issue a permanent exclusion is for the Headteacher to make.

A decision to exclude a student permanently will only be taken:

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

4. Governors' responsibility to review the Headteacher's use of exclusion

Governors have a duty to review the Headteacher's use of exclusion. All permanent exclusions and fixed term exclusions amounting to over 15 days in a term (cumulatively or singly), will be considered by a Governors' Discipline Committee (GDC).

The quorum for the GDC is three Governors from any academy within The Two Counties Trust. A suitably trained Governance Professional will be in attendance to act as Clerk.

The Headteacher and relevant staff members will attend the meeting in an advisory capacity only and will not form part of the GDC or play any part in the decision making.

Except for in exceptional circumstances the meeting will be held within 15 school days of the date of the decision to exclude.

In the case of a fixed-term exclusion which does not bring the student's total number of days of exclusion to more than five in a term, the Local Governing Body (LGB) will consider any representations made by parents/carers at their next ordinary LGB meeting, but it cannot direct reinstatement and is not required to arrange a meeting with parents. Following the meeting, the Governance Professional will notify parents/carers of the Governors' findings without delay,



Following the exclusion of a student for more than five but less than 15 school days in any one term, the GDC must consider any representation from parents/carers within 50 school days of parents receiving the notice of exclusion and consider whether the excluded student should be reinstated. If the GDC consider it necessary, they may invite parents to attend this meeting

For exclusions of more than five but less than 15 school days, in the absence of any representations from the parents/carers, the GDC is not required to meet and cannot direct the reinstatement of the student.

5. Missing a public examination

Where an exclusion will result in a student missing a public examination or national curriculum test, the Governors will, so far as is reasonably practicable, consider the exclusion before the date of the examination or test. This can be delegated to the Chair of the LGB if it is not practicable to convene a meeting of the GDC.

6. Decision making

In the light of its consideration, the GDC can either:

- decline to reinstate the student; or
- direct reinstatement of the student immediately or on a particular date

7. Procedure for permanent exclusions

If a Headteacher considers permanent exclusion is their only option, they will discuss this with the CEO of The Two Counties Trust before taking any action. This is not necessary in the case of fixed-term exclusions.

The Headteacher will take all necessary steps to gather witness statements and evidence. When establishing the facts in relation to an exclusion decision the Headteacher must apply the civil standard of proof; i.e. 'on the balance of probabilities' it is more likely than not that a fact is true, rather than the criminal standard of 'beyond reasonable doubt.' This means that the Headteacher should accept that something happened if it is more likely that it happened than that it did not happen.

A Headteacher may determine that evidence is available to issue a fixed term exclusion.

In some instances, the investigation and deliberation process may continue after the fixed term exclusion has been given. The Headteacher will offer an opportunity for the student who has been fixed term excluded to meet with the Headteacher and give their comments on the investigation and evidence that has been gathered.

The Headteacher may then review the information and evidence and may:

- Withdraw the original exclusion;
- Progress with re-integration and retain the original exclusion;
- Apply either a further fixed term exclusion or;
- determine that a permanent exclusion is the appropriate outcome.

Timeline

School day 1 - Once a decision has been reached, the Headteacher will telephone parents/carers to inform them. If the student is still on the academy premises, parents/carers will be asked to collect their child. The decision will be followed up in writing on the day of the permanent exclusion or the following school day if the school day has ended.

Between school day 2 and school day 10

The Headteacher will notify the Chair of Governors of the exclusion, via the Governance Professional, who will convene a GDC meeting. Where possible, Governors from the excluding academy will be invited to form the committee. Where this is not possible, the Governance Professional will seek support from the Lead Governance Professional who will approach other Governors within the Trust.

The Headteacher will begin the process of collating information for the GDC meeting, which will be circulated to all parties, no later than five school days before the date of the GDC meeting. The agenda for the GDC will be circulated to all parties ahead of the meeting.



By school day 10

Parents/carers will be invited to the GDC meeting and given as much notice as possible of the date and time, and as a minimum, five school days' notice. The Governance Professional will take into account the parent/carer's availability when setting the date and time. Once, scheduled, the meeting will only be rearranged in extreme circumstances with consultation of the Chair of the GDC. Reasons will be provided and documented in the event of any postponement.

The GDC meeting will be held in a private room within the school. If the parents/carers or student have access needs, these will be considered when deciding on the location and will be met. During the Covid-19 Pandemic, and providing legislation permits, GDC meetings may be held remotely, subject to the agreement of all parties.

Parents/carers will be advised verbally of the committee's decision, which the Governance Professional will confirm in writing as soon as is reasonably practicable, but in all instances within two school days. The Governance Professional will send a copy of the letter to the Local Authority and notify the Lead Governance Professional of the outcome.

8. Reintegration following fixed-term exclusion

A re-integration meeting will be held with parents/carers and the student following a fixed-term exclusion. The failure of parents/carers to attend a re-integration meeting does not extend the exclusion period.

9. Police proceedings

The Headteacher need not postpone taking a decision on an exclusion solely because a police investigation is underway and/or any criminal proceedings may be brought. In such circumstances, the Headteacher will need to take a decision on the evidence available to them at the time. Where the evidence is limited by a police investigation or criminal proceedings, the Headteacher should consider any additional steps they may need to take to ensure that the decision to exclude is fair. However, the final decision on whether to exclude is for the Headteacher to make. Where the governing board is required to consider a reinstatement in these circumstances, it cannot postpone its meeting and must decide whether or not to reinstate the student on the evidence available.

10. Independent Review Panel (IRP)

If applied for by parents/carers within the legal time frame, The Two Counties Trust will arrange for an Independent Review Panel to review the decision of the GDC not to reinstate a permanently excluded student.

The deadline for an application for an IRP is 15 school days of notice being given to the parents/carers by the GDC of its decision not to reinstate the permanently excluded student. This date will be shown in the GDC decision letter. Where an application is made outside of this time frame it cannot legally be accepted.

Parents/carers must notify the Lead Governance Professional, Sarah Hand in writing by the date given in the GDC decision letter if they require an Independent Review Panel hearing.

Mrs Sarah Hand

Lead Governance Professional

The Two Counties Trust

Sutton Road

Kirkby-in-Ashfield

Nottingham

NG17 8HP

Or by email to: shand@twocountiestrust.co.uk

11. Special Educational Needs (SEN) expert

Whether or not a school recognises a student as having SEN, all parents/carers have the right to request the presence of an SEN expert at the IRP. The SEN expert's role is to advise the review panel, orally or in writing or both, impartially, of the relevance of SEN in the context and circumstances of the review.

Parents/carers must notify the Lead Governance Professional in writing least seven school days before the date of the IRP if they require an SEN expert to be present.



Mrs Sarah Hand
 Lead Governance Professional
 The Two Counties Trust
 Sutton Road
 Kirkby-in-Ashfield
 Nottingham
 NG17 8HP

Or by email to: shand@twocountiestrust.co.uk

12. Principles of natural justice

All decisions to exclude are based on a balance of probabilities both by Headteachers and at any subsequent review. In making a decision to exclude, a Headteacher must ensure that their decision is 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.

Members of the GDC should be impartial, unprejudiced, have taken no previous part in the case and have no personal interest in its result.

Headteachers should not discuss individual exclusions with LGB members who will form the GDC.

Parents/carers will be informed of the case put forward by the academy and have an opportunity to challenge it.

Both parties should be allowed to present their case without interruption.

Parents/carers should be able to bring a friend or adviser with them and must notify the Governance Professional at least five school days in advance of the GDC meeting of the name and status of the advisor.

All documents to be used in evidence should be distributed to all parties at least five school days before the hearing. If new material is introduced at the hearing, all parties must have time to consider it.

No party at the GDC will be in the presence of the GDC without the other party being present, save for the Governance Professional.

13. Other relevant legislation

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 students)

Human Rights and Equality legislation

SEN guidance

Exclusion from maintained schools, academies and pupil referral units in England September 2017

14. Data Protection Act and UK GDPR

All data within this policy will be processed in line with the requirements and protections set out in the Data Protection Act and UK General Data Protection Regulations. More details are available on the Trust website:

<https://www.ttct.co.uk/our-trust/policies>

