

Exclusions Policy

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Contact	Janet Bremner Tel: 0117 379 0119 Email: clerk@educatetogether.org.uk	
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1. Aims

Our schools at Educate Together Academy Trust (ETAT) aim to ensure that:

- the exclusions process is applied fairly and consistently;
- the exclusions process is understood by governors, staff, parents and children
- children in school are safe and happy;
- children do not become NEET (not in education, employment or training).

2. Ethos and values

We are committed to following all statutory exclusion procedures to ensure that every child receives an education in line with the core principles of ETAT:

- **Equality-based:** All children have equal access to the school and no one religion or worldview is given priority over another within the school.
- **Co-educational:** All children are encouraged to explore their full range of abilities and are provided with equal opportunities regardless of their gender or identity
- **Child-centred:** Our child-centred approach means that we put children at the heart of all policies and practices and involve them in decision-making where appropriate.
- **Democratically-run:** We run schools on a democratic basis, encouraging active participation by parents and students in the daily life of the school whilst positively affirming the professional role of the teachers.

3. Legislation and guidance

This policy is based on the following **statutory guidance** from the Department for Education (2017):

- Exclusion from maintained schools, academies and child referral units (PRUs) in England which can be found [here](#)

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

- Section 52 of the Education Act 2002, as amended by the Education Act 2011 found [here](#)
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 found [here](#)
- Sections 64-68 of the School Standards and Framework Act 1998 found [here](#)

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 found [here](#)
- Section 579 of the Education Act 1996, which defines 'school day' found [here](#)

- 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 found [here](#)

The UN Convention on the Rights of the Child

In line with our ethos, we are proud to be a Rights Respecting school. This policy supports articles 28 and 29 from the UN convention of the rights of the child – see appendix 3.

Key definitions

For the purposes of exclusions, **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.

4. The decision to exclude

The power to exclude

Only the head teacher (or acting head teacher) of each school within ETAT can exclude a child at their school and this must be on disciplinary grounds. A child may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or permanently. For more details please refer to the guidance cited in section 3 and found here ([DfE 2017](#)). A permanent exclusion will always be taken as a last resort.

Fixed term

A decision to exclude a child for a fixed period will be taken only in response to:

- very serious breaches of the school's behaviour policy;
 - persistent disruptive behaviour which is not deemed serious enough to merit permanent exclusion nor minor enough for internal sanctions to be appropriate;
- and**
- if allowing the child to remain in school would seriously harm the education or welfare of others;

Fixed term exclusion is likely to be the minimum sanction for a malicious allegation against a member of staff.

Permanent exclusion

A decision to permanently exclude a child will be taken only in response to:

- serious or persistent breaches of the school's behaviour policy;
- incidents involving an offensive weapon;
- persistent bullying, homophobic or racial harassment;
- **and**
- if allowing the child to remain in school would seriously harm the education or welfare of others.

The decision-making process

Before deciding whether to exclude a child, 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 or the child has been subject to bullying;
- allow the child to give their version of events, where practical this should be recorded in writing;
- consider if the child has special educational needs;
- consider any other factors, for example, mental health issues or pastoral concerns such as a recent bereavement or changes to home life.
- consider alternatives to exclusion, e.g. the possibility of alternative provision or working with the local authority to arrange a "negotiated transfer" to another setting.

If a child is excluded, details of how these contributing factors have been considered need to be recorded as part of the exclusion report held on the child's file. All issues relating to behaviour, including the exclusion decision process, should be documented on CPOMS.

Looked after children and children with an EHC plan

The head teacher should, as far as possible, avoid permanently excluding any child with an EHC plan or a looked after child.

Where a school has concerns about the behaviour, or risk of exclusion, of a child with additional needs, a child with an EHC plan or a looked after child, it should, in partnership with others (including the local authority as necessary), consider what additional support or alternative placement may be required. This should involve assessing the suitability of provision for a child's SEN. Where a child has an EHC plan, schools should consider requesting an early annual review or interim/emergency review.

Off-rolling

Our school is aware that off-rolling is unlawful. Ofsted defines off-rolling as:

"...the practice of removing a child from the school roll without a formal, permanent exclusion or by encouraging a parent to remove their child from the school roll, when the removal is primarily in the interests of the school rather than in the best interests of the child."

We are committed to following all statutory exclusions procedures (see [DfE 2017](#)) to ensure that every child receives an education in a safe and caring environment.

5. Roles and responsibilities

5.1 The headteacher

Informing parents

The headteacher will immediately provide the following information, in writing, to the parents of an excluded child:

- 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 about parents' right to make representations about the exclusion to the local governing board and how the child may be involved in this; and

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

The headteacher will also notify parents 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 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.

Clear communication

The head teacher should ensure that information provided to parents is clear and easily understood. Where the parents' first language is not English consideration should be given, where practical, to translating the letter or taking additional steps to ensure that the details of the exclusion and their right to make representations to the governing board have been understood.

Arranging alternative provision and set work for home

The headteacher will ensure that the child receives work set by the school for the first five days of the exclusion. For fixed-term exclusions of longer than five days, the Local Governing Board will then provide alternative provision. In this case, the following information will be included when notifying parents 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 child to identify the person they should report to on the first day

Where information on alternative provision is not reasonably ascertainable by the end of the afternoon session, it may be provided in a subsequent notice, but 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' consent.

Informing the governing board and local authority

The headteacher will immediately notify the local governing board, the CEO and the local authority (LA) of:

- Any permanent exclusion
- Exclusions which would result in the child being excluded for more than 5 school days (or more than 10 lunchtimes) in a term
- Exclusions which would result in the child missing a public examination

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

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

5.2 The local governing board

Responsibilities regarding exclusions is delegated to the local governing board for each school. These responsibilities include the duty:

- to consider the reinstatement of an excluded child (see section 6);
- to provide the secretary of state with information about any exclusions in the last 12 months within 14 days of receipt of a request;
- to arrange suitable full-time education for a child with a fixed-period exclusion of more than 5 school days. This provision will begin no later than the sixth day of the exclusion.

When appropriate, the board may form an Exclusions panel with a minimum of 3 governors from across ETAT in order to fulfil these and other responsibilities detailed in this policy.

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 child

The local governing board will consider the reinstatement of an excluded child 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 child's total number of school days of exclusion to more than 15 in a term;
- it would result in a child missing a national curriculum test.

If requested to do so by parents, the local governing board will consider the reinstatement of an excluded child within 50 school days of receiving notice of the exclusion if the child 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 child missing a national curriculum test, the local governing board will consider the reinstatement of the child before the date of the examination. If this is not practicable, the local governing board will consider the exclusion and decide whether or not to reinstate the child prior to the date of the national curriculum test.

The local governing board can either:

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

In reaching a decision, the local governing board will consider whether the exclusion was:

- lawful
- reasonable;

- 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 child's educational record.

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

Where an exclusion is permanent, the local governing board's written 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 child's SEN are considered to be relevant to the exclusion
 - That, regardless of whether the excluded child has recognised SEN, parents have a right to require ETAT to appoint a 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 a 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.

For further details please see the statutory guidance to a governing board in preparing for the consideration of an exclusion ([DfE, 2017 p.19](#)).

7. An independent review

If parents apply for an independent review, ETAT will arrange for an independent panel to review the decision of the governing board not to reinstate a permanently excluded child.

Applications for an independent review must be made within 15 school days of notice being given to the parents by the local governing board of its decision to not reinstate a child.

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/director] of ETAT or governing board of the excluding school
- Are the headteacher of the excluding school, or have held this position in the last 5 years

- Are an employee of ETAT or the governing board, of the excluding school (unless they are employed as a headteacher at another school)
- Have, or at any time have had, any connection with ETAT, the individual school, governing board, parents or child, 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 child'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 child 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

Where an application for an independent review has been made, the governing board will wait until that review has concluded before removing a child's name from the register.

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

Where an excluded child is not attending alternative provision, code E (absent) will be used.

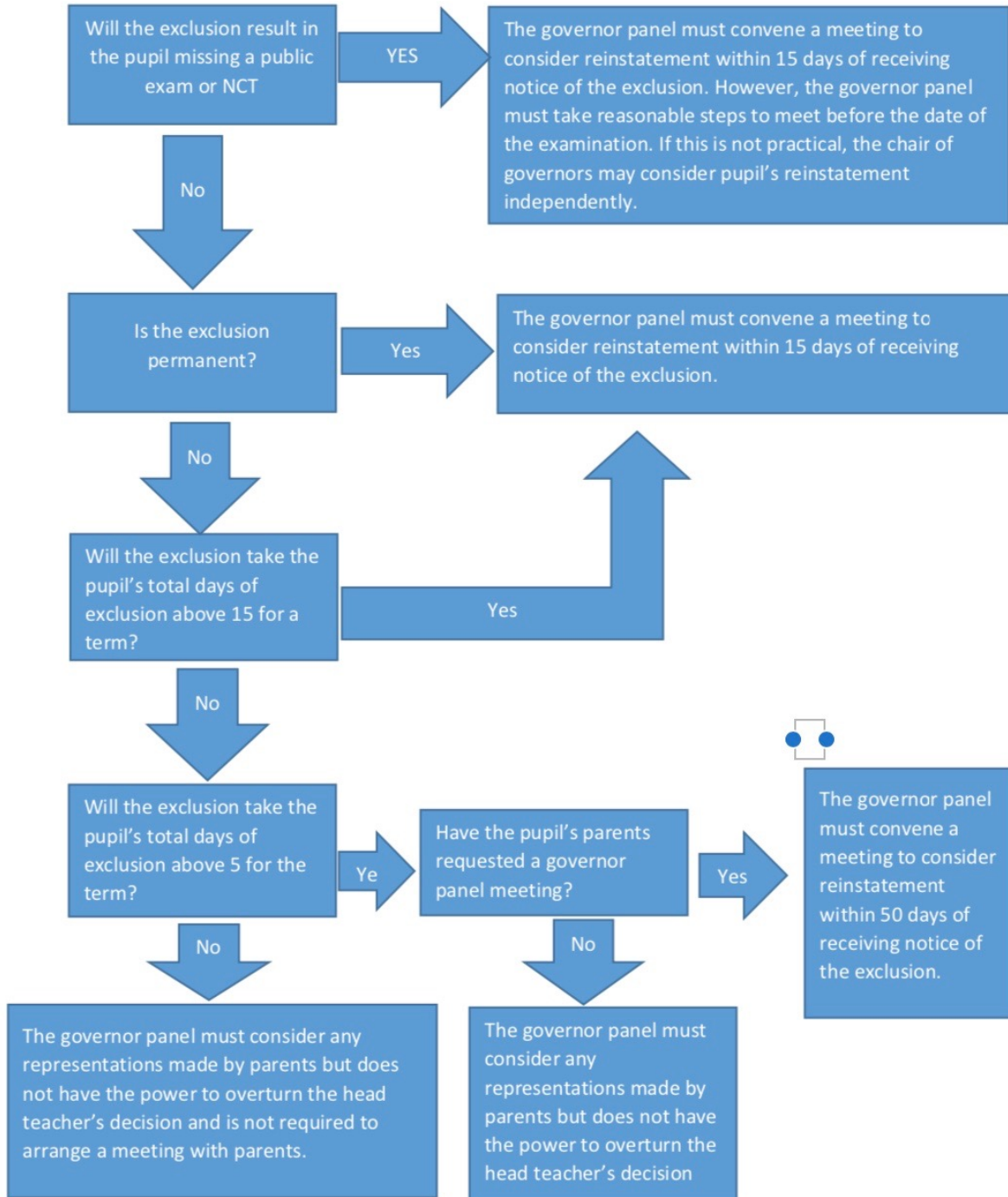
9. Returning from a fixed-term exclusion

Following a fixed-term exclusion, a re-integration meeting will be held involving the child, parents, the headteacher and other staff, where appropriate. The meeting will be used to discuss the return, clarify expectations and address any concerns the child or their parents/carers may have.

Additional measures may be needed, which could include:

- mentor or child support;
- additional supervision for unstructured times of the time;
- a behaviour contract/plan or a learning support plan with input from the school SENCO and additional specialist services, where appropriate;
- a positive handling plan and risk assessment;
- increased liaison between home and school;
- parent/carer support.

Appendix 1- Summary of Governor Panel duties



Appendix 2: Independent review panel training

ETAT 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

UNCRC Rights of the child

Article 2 Every child has these rights, no matter who they are, where they live, what their parents do, what language they speak, what their religion is, whether they are a boy or girl, what their culture is, whether they have a disability, whether they are rich or poor. No child should be treated unfairly on any basis.

Article 4 Governments must do all they can to make sure every child can enjoy their rights.

Article 12 Every child has the right to have a say in all matters affecting them, and to have their views taken seriously.

Article 13 Every child must be free to say what they think and to seek and receive information of any kind as long as it is within the law.

Article 14 Every child has the right to think and believe what they want, and to practise their religion, as long as they are not stopping other people from enjoying their rights.

Article 19 Governments should ensure that children are properly cared for, and protect them from violence, abuse and neglect by their parents, or anyone else who looks after them.

Article 23 Children who have any kind of disability should receive special care and support so that they can live a full and independent life.

Article 27 Every child has the right to a standard of living that is good enough to meet their physical, social and mental needs.

Article 28 Every child has a right to primary education, which should be free. Discipline in schools should respect children's human dignity;

Article 29 Education must develop each child's personality, talents and abilities to the full. It must encourage children to respect their parents, and their own and other cultures.

Article 30 Children have a right to learn and use the language and customs of their families, whether these are shared by the majority of people in the country or not.

Article 31 Children have the right to relax, play and to join in a wide range of leisure activities.

Article 39 Children who have been neglected or abused should receive special help to restore their self-respect