

EXCLUSION POLICY



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EXCLUSION POLICY

1. Aims

Our school aims to ensure that:

- The exclusions process is applied fairly and consistently.
- The exclusions process is understood by governance, staff, parents and learners.
- Learners in school are safe and happy.
- Learners do not become NEET (not in education, employment or training)

2. Legislation and statutory guidance

This policy is based on statutory guidance from the Department for Education.

It is based on the following legislation, which outline schools' powers to exclude learners:

- Section 52 of the Education Act 2002, as amended by the Education Act 2011
- The School Discipline (Learner Exclusions and Reviews) (England) Regulations 2012 ● Sections 64-68 of the School Standards and Framework Act 1998

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 learners
- Section 579 of the Education Act 1996, which defines 'school day'
- The Education (Provision of Full-Time Education for Excluded Learners) (England) Regulations 2007, as amended by The Education (Provision of Full-Time Education for Excluded Learners) (England) (Amendment) Regulations 2014

3. The decision to exclude.

Only the Director of Education, or CEO, can exclude a learner from school. A permanent exclusion will be taken as a last resort.

A decision to exclude a learner will be taken only:

- In response to serious or persistent breaches of the school's behaviour policy, **and**
- If allowing the learner to remain in school would seriously harm the education or welfare of others

Before deciding whether to exclude a learner, either permanently or for a fixed period, the Director of Education or CEO will:

- Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked.
- Allow the learner to give their version of events.

4. Definition

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.

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5. Roles and responsibilities

5.1 The Director of Education or CEO

Informing parents

The Director of Education or CEO will immediately provide the following information, in writing, to the parents of an excluded learner:

- 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 governance board and how the learner may be involved in this.
- Where there is a legal requirement for the governance board to meet to consider the reinstatement of a learner, and that parents have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend.

The Director of Education or CEO 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.

If alternative provision is being arranged, 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 learner 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' consent.

Informing governance and local authority

The Director of Education or CEO will immediately notify governance and the local authority (LA) of:

- A permanent exclusion, including when a fixed-period exclusion is made permanent.
- Exclusions which would result in the learner being excluded for more than 5 school days (or more than 10 lunchtimes) in a term.
- Exclusions which would result in the learner missing a public examination.

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

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For all other exclusions, the Director of Education or CEO will notify governance and LA once a term.

5.2 Governance

Responsibilities regarding exclusions is delegated to the Education Leadership Team, the Senior Management Team and the Board of Trustees.

This group has a duty to consider the reinstatement of an excluded learner (see section 6).

Responsibilities regarding exclusions is delegated to the Director of Education or CEO. Within 14 days of receipt of a request, the Director of Education or CEO will provide the Secretary of State with information about any exclusions in the last 12 months.

5.3 The Local Authority (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 learner

Aycliffe School will consider the reinstatement of an excluded learner 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 learner's total number of school days of exclusion to more than 15 in a term.
- It would result in a learner missing a public examination.

If requested to do so by parents, the Director of Education or CEO will consider the reinstatement of an excluded learner within 50 school days of receiving notice of the exclusion if the learner 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 learner missing a public examination, Aycliffe School will consider the reinstatement of the learner before the date of the examination. If this is not practicable, Aycliffe School will consider the exclusion and decide whether or not to reinstate the learner.

The school can either:

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

In reaching a decision, Aycliffe School will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the Director of Education or CEO 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 learner's educational record.

Aycliffe School will notify, in writing, the board of Trustees, parents and the LA of its decision, along with reasons for its decision, without delay.

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Where an exclusion is permanent, Aycliffe School's 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 learner's SEN are considered to be relevant to the exclusion.
 - That, regardless of whether the excluded learner has recognised SEN, parents have a right to appoint an 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 an 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.

7. An independent review

If parents apply for an independent review, the local authority will arrange for an independent panel to review the decision of governance not to reinstate a permanently excluded learner.

Applications for an independent review must be made within 15 school days of notice being given to the parents by Aycliffe School of its decision to not reinstate a learner.

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 Trustees category and 2 members will come from the Director of Education or CEO 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 Director of Education or CEOs during this time.
- Director of Education or CEOs or individuals who have been a Director of Education or CEO within the last 5 years.

A person may not serve as a member of a review panel if they:

- Are the Director of Education or CEO of the excluding school, or have held this position in the last 5 years?
- Are an employee of the Society, or the board of Trustees, of the excluding school (unless they are employed as a Director of Education or CEO at another school)
- Have, or at any time have had, any connection with the school, board of Trustees, parents or learner, 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.

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The independent panel will decide one of the following:

- Uphold the decision of governance.
- Recommend that governance reconsiders reinstatement.
- Quash the decision of governance 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 learner'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 learner 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 governance will wait until that review has concluded before removing a learner's name from the register.

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

Where excluded learners are 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 learner, parents, a member of senior staff and other staff, where appropriate.

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

- Regular MDT meetings to discuss progress and behaviour.
- Progress updates to parents
- Learner self-management of behaviour programme
- PPS MDT / functional analysis behaviour meetings

10. Monitoring arrangements

The Director of Education monitors the number of exclusions every term and reports back to the board of Trustees. They also liaise with the local authority to ensure suitable full-time education for excluded learners.

This policy will be reviewed by the Director of Education or CEO every year. At every review, the policy will be shared with the board of trustees.

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11. Links with other policies

This exclusion policy is linked to our:

- Behaviour policy
- Positive and Proactive Support Policy
- Admissions