



# Exclusion Policy

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### **Statement of intent**

At Prenton High School, we understand that good behaviour for learning and discipline is essential for promoting a high quality of education.

Amongst other sanctions, the school recognises that exclusion of students may be necessary where there has been a serious breach, or consistent breaches, of the school's **Behaviour for Learning Policy**. Excluding a student may also be required in instances where allowing the student to remain in school would be damaging to the education of others.

The school has created this policy to clearly define the legal responsibilities of the Headteacher, Governing Body and LA when responding to student exclusions, in order to ensure that they are dealt with both fairly and lawfully, and in line with DfE statutory guidance.

This policy also aims to secure a student's right to an education despite having been excluded, by ensuring that appropriate arrangements are in place.

## 1. Legal framework

- 1.1. This policy has due regard to the related statutory legislation, including but not limited to, the following:
- The Education Act 2002 (As amended by The Education Act 2011)
  - The School Discipline (Student Exclusions and Reviews) (England) Regulations 2012
  - The Education and Inspections Act 2006
  - The Education (Provision of Full-Time Education for Excluded Students) (England) Regulations 2007 (As amended 2014)
  - European Convention on Human Rights (ECHR)
  - The Equality Act 2010
- 1.2. This policy also has due regard to statutory and non-statutory guidance, including, but not limited to, the following:
- DfE 'Exclusion from maintained schools, Academies and student referral units in England' 2012
  - DfE (2016) 'Behaviour and discipline in schools'
  - DfE (2015) 'Special educational needs and disability code of practice: 0 to 25 years'
- 1.3. This policy will be implemented in conjunction with the following school policies and procedures:
- **Behaviour for Learning Policy**
  - **Anti-Bullying Policy**

## 2. Grounds for exclusion

- 2.1. The school will only exclude a student where it is absolutely necessary, and where appropriate, as detailed in the school's Behaviour for Learning Policy, have failed to be successful.
- 2.2. The following examples of behaviour may underline the school's decision to exclude a student:
- Theft
  - Vandalism
  - Premeditated or disproportionate violence towards another child or adult
  - Behaviour that endangers the safety of others
  - Persistent bullying
  - Foul and abusive language directed at staff or fellow students
  - Persistent repetition of minor misbehaviour over a period of time and failure or refusal to respond to interventions
  - Smoking on the school site, or to and from school, or whilst in school uniform
  - Failure to attend SLT detention or Internal Exclusion
  - Persistently disrupting the learning of others
  - Intimidating others
  - False allegations against staff
  - Challenging the authority of the school

- Acting in a manner which causes damage to the school and its students' reputation including the use of social media platforms or misuse of technology
- Possession of a weapon
- Possession, supply or use of a banned substance, alcohol, cigarettes, e cigarettes or in possession of drugs paraphernalia
- Replicating drug taking behaviours

This is not an exhaustive list and there may be other situations where the Headteacher makes the judgement that exclusion is an appropriate sanction. Exclusions can be either fixed term or permanent.

- 2.3. Students can be excluded on a fixed period basis, i.e. up to a total of 45 school school days within a year, or permanently. Similarly, fixed period exclusions can be extended into permanent exclusions where further evidence has been presented or after an investigation has been completed.
- 2.4. In all cases, the Headteacher will decide which exclusion period a student will be subject to, depending on what the circumstances warrant. In the absence of the Headteacher, the Deputy Headteacher will make this decision.

### **3. A Headteacher's power to exclude**

- 3.1. Only the Headteacher has the power to exclude a student 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. In the absence of the Headteacher, the Deputy Headteacher has the power to exclude.
- 3.2. The Headteacher is able to exclude students from the premises where their behaviour is disruptive during lunchtime. All lunchtime exclusions will be counted as half of a school day.
- 3.3. The Headteacher is able to consider a student who engages in disruptive behaviour outside of school premises as grounds for exclusion, in accordance with the school's **Behaviour for Learning Policy**.
- 3.4. Any decision made to exclude a student will be lawful, proportionate and fair, with respect to legislation relating directly to exclusions and the school's wider legal duties, including the European Convention on Human Rights (EHCR). All exclusions will be formally recorded.
- 3.5. When sending a student home following any exclusion, the Headteacher will ensure that they exercise their duty of care at all times and will always inform the parents/carers and will request students are collected. If this is not possible, the student will be escorted home as appropriate.
- 3.6. 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.
- 3.7. The Headteacher may withdraw any exclusion that has not already been reviewed by the Governing Body.

- 3.8. At all times, the Headteacher will take into account their legal duties under The Equality Act 2010 and the SEND Code of Practice: 0 to 25 years, ensuring that they do not discriminate on any grounds, e.g. race, sex, disability, etc., and will not increase the severity of a student's exclusion on these grounds.
- 3.9. The Headteacher will not issue any 'informal' or 'unofficial' exclusions, such as sending a student home to 'cool-off', regardless of whether or not the parents/carers have agreed to this.
- 3.10. The Headteacher will not use the threat of exclusion as a means of instructing parents/carers to remove their child from the premises.

#### **4. Factors to consider when excluding a student**

- 4.1. When considering the exclusion of a student, the Headteacher will:
  - Allow the student the opportunity to present their case.
  - Take into account any contributing factors that are identified after a case of poor behaviour has occurred, e.g. if the student's wellbeing has been compromised, or they have been subjected to bullying.
  - Take into consideration whether the student has received multiple exclusions or is approaching the legal limit of 45 excluded days per school year, and whether exclusion is serving as an effective sanction.
  - Consider early intervention to address underlying causes of disruptive behaviour, including liaising with external agencies, to assess students who demonstrate consistently poor behaviour.
- 4.2. The Headteacher will consider what extra support may be available for vulnerable student groups whose exclusion rates are higher, in order to reduce their risk of exclusion, including the following:
  - Looked after children (LAC)
  - Students eligible for free school meals
  - Students with special educational needs and disabilities (SEND)
  - Certain ethnic groups
- 4.3. In light of the above, the Headteacher will consider avoiding permanent exclusion for student groups who are particularly vulnerable to the impacts it would create for them, such as LAC.
- 4.4. Where any member of staff has concerns about vulnerable student groups and their behaviour, they will report this to the Student Services team who will consider what extra support or alternative placement is required.
- 4.5. The Headteacher and school will work in conjunction with the parents/carers of any student with additional needs, in order to establish the most effective support mechanisms.

## 5. Fixed Term exclusion

- 5.1. A student will not be excluded for a period that exceeds 45 days in any one school year.
- 5.2. The school will make every effort to inform parents of a fixed term exclusion before the end of the school session (the school office closes at 5pm) by telephone, email or text.
- 5.3. This will be followed up in all cases with a letter.
- 5.4. Parents will be informed of the length of the exclusion, the reason for the exclusion and their rights, including their right to make representations and who to contact if they wish to make representations about the exclusion.
- 5.5. When a student is required to be at home, parents/carers will be advised that the student is not allowed on the school premises, and that daytime supervision is their responsibility, as parents/carers.
- 5.6. The letter will also make clear the date and time when the student should return to school.
- 5.7. The school will continue to provide education for all students on fixed term exclusion and mark the work that is completed and returned to school.
- 5.8. In reviewing the statement, if a student with a Statement of SEN or EHCP is excluded, the school will call an Interim Annual review seeking the advice of the LA.
- 5.9. The school will plan the return and reintegration into school after fixed term exclusions with parents and students.
- 5.10. The Head will inform the Governors' and Local Authority within one school day of any fixed term exclusions totalling more than five school days per term and each term of fixed term exclusions totalling fewer than five school days a term.
- 5.11. According to Department for Education guidance school is obliged to provide full time education from the sixth day of any period of fixed term exclusion of six days or longer.
- 5.12. The school will consult with the LA officers for any exclusion of more than five days in order that appropriate full time education and transport is arranged.

## 6. Permanent exclusion

- 6.1. The decision to exclude a student permanently could be taken by the Headteacher in the following circumstances:-
  - 6.1.1.1 In response to a serious breach, or persistent breaches, of the School's Behaviour for Learning Policy.

- 6.1.1.2 Where allowing the student to remain in School would seriously harm the education or welfare of the student or others in the School.
- 6.2. In the case of a permanent exclusion the same process as that for fixed term exclusions will be followed except the communication will make clear that it is a permanent exclusion.
- 6.3. The Headteacher will inform the Governors and Local Authority within one school day of any permanent exclusions. The school will follow the guidance on the Equality Act 2010 published by the 'Equality and Human Rights Commission;' in Section 5.4 entitled 'What equality law means for you as an educational provider'. This guidance states that whilst a 'school must not discriminate against a pupil by excluding them from school "it does not mean a school cannot exclude a pupil with a protected characteristic". The guidance recognises that "there may be occasions when it is appropriate to exclude a pupil with a protected characteristic" it stresses it is important that a school does not exclude 'because of' the protected characteristic.

## 7. Duty to inform parents/carers

- 7.1. Following the Headteacher's decision to exclude a student, they will inform the parents/carers immediately, without delay, of the period of the exclusion and the reasons behind this.
- 7.2. The Headteacher will inform the parents/carers in writing, of the following:
- The reasons for the exclusion
  - The length of the fixed period exclusion, or, for a permanent exclusion, the fact that it is permanent
  - The parents'/carers' right to raise any representations of the exclusion to the Governing Body, including how the student will be involved in this and how the representations will be made
  - The parents'/carers' right to attend a meeting where there is a legal requirement for the Governing Body to consider the exclusion, and the fact that they are able to bring an accompanying individual
  - The arrangements that have been made for the student to continue their education prior to the organisation of any alternative provision, or the student's return to school
  - Relevant sources of free, impartial information
- 7.3. Where the student is of compulsory school age, the Headteacher will inform the parents/carers by the end of the afternoon session that:
- For the first five days of the exclusion, parents/carers are legally required to ensure that their child is not present in a public place during school hours without justification, and that parents/carers may receive a penalty fine if they fail to do so.

- 7.4. Where the Headteacher has arranged alternative provision, the Headteacher will also inform the parents/carers of the following:
- The start date for any provision of full-time education, including starting and finishing times
  - The address at which the provision will take place
  - Any information necessary for the student to identify the person they should report to on the starting date
- 7.5. Where the Headteacher is unable to provide information on alternative provision by the end of the afternoon session, they will provide the information in a subsequent written notice without further delay, and within 48 hours of the student beginning the provision.
- 7.6. If the alternative provision is due to begin before the sixth day of exclusion, the Headteacher is able to give less than 48 hours of notice, with the parents'/carers' consent.
- 7.7. If the Headteacher has decided to extend the student's exclusion from a fixed period to permanent, they will notify the parents/carers of the extended exclusion, the reasons for this and any other important information.

## **8. Duty to inform the Governing Body and Local Authority**

- 8.1. The Headteacher will inform the Governing Body and Local Authority, without delay, of the following:
- Any permanent exclusions (including where a fixed period exclusion has been extended to be permanent)
  - Any exclusions which would result in the student being excluded for more than five school days in a term (or more than 10 lunchtimes)
  - Any exclusions which would result in the student being absent from an examination or national curriculum test
- 8.2. For any exclusions other than those above, the Headteacher will notify the Governing Body once per term.
- 8.3. All notifications to the Governing Body and LA will include the reasons for exclusion and the duration of any fixed period exclusion.
- 8.4. If the student who is excluded lives outside the LA in which the school is located, the Headteacher will notify the student's 'home authority'.

## **9. Arranging education for excluded students**

- 9.1. For any fixed period exclusions of more than five school days, the Governing Body will arrange suitable full-time education for the student, which will begin no later than the sixth day of exclusion.
- 9.2. The Governing Body will not arrange full-time education for any student who is currently in their final year of compulsory education, and who does not have any further public examinations to sit.

- 9.3. The Governing Body is aware that it is beneficial to excluded students to begin their alternative education arrangements before the sixth day of exclusion. The Governing Body will always attempt to arrange alternative provision before the sixth day of exclusion.
- 9.4. Where it is not necessary to arrange alternative provision during the first five days of exclusion, the school will ensure that they take reasonable steps to set and mark work for the excluded student.
- 9.5. If a student with SEND has been excluded, the Governing Body will ensure that any alternative provision is arranged in consultation with the parents/carers, who are able to request preferences.

## **10. Considering exclusions**

- 10.1. The Governing Body, or a delegated committee, will consider any representations made by parents/carers in regard to exclusion.
- 10.2. Parents/carers, the Headteacher and, where applicable, a member of the LA, will be invited to attend any consideration of exclusions and will be able to make representations.
- 10.3. Any meeting to consider an exclusion will be arranged at a date and time convenient for all parties, and in compliance with any statutory time limits.
- 10.4. The Governing Body will consider exclusions, and the reinstatement of the student, where:
  - The exclusion is permanent.
  - The exclusion is fixed period, and would bring the student's total number of excluded school days to more than 15 in any given term.
  - The exclusion would result in the student missing a public examination.
- 10.5. The Governing Body will consider exclusions within 50 school days of receiving notification, if requested by the parents/carers, where a student would be excluded for more than five school days per term, but not more than 15.
- 10.6. In the case of a fixed period exclusion, where the student's total number of excluded school days does not amount to more than five, the Governing Body will consider any representations made by parents/carers, but will not be able to reinstate the student.
- 10.7. Where exclusion would result in a student missing a public examination, the Governing Body will consider the exclusion before the test to decide whether the student should be reinstated in time to take the examination.
- 10.8. In light of the above, the Governing Body will also consider whether it would be appropriate to allow the excluded student to enter on to the premises to take the examination.
- 10.9. When considering exclusions, the Governing Body will:
  - Only discuss the exclusion with the parties present at the meeting.

- Ask for any written evidence prior to the meeting.
- Circulate any written evidence and information to all parties, at least five school days in advance of the meeting.
- Allow students and parents/carers to be accompanied by a person of their choice at the meeting.
- Consider what reasonable adjustments need to be made to support the attendance and contribution of parties at the meeting.
- Identify the steps needed to enable and encourage the excluded student to attend the meeting and speak on her behalf, or how she may contribute personal views by other means if attendance is not possible.
- Consider the interests and circumstances of the excluded student, including the grounds for exclusion.

## **11. Reaching a decision**

11.1. After considering exclusions, the Governing Body will either:

- Uphold an exclusion; or
- Reinstate the student immediately, or on a specified date.

11.2. If reinstatement is not possible, e.g. if the student has already returned to school following a fixed period exclusion, the Governing Body will consider whether the Headteacher's decision to exclude the student was fair, lawful and proportionate, based on the evidence presented.

11.3. The Governing Body 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.

11.4. In order to reach a decision, the Governing Body will:

- Identify the steps they intend to take to ensure that all parties involved will have the opportunity to participate and present their views.
- Ensure that minutes are taken of the meeting as a record of the evidence that was considered.
- Ask all parties to withdraw from the meeting before concluding their decision.
- Consider whether the exclusion of the student was lawful, proportionate and fair, taking into account the Headteacher's legal duties.
- Record the outcome of the decision on the student's educational records, along with copies, which will be kept for at least six months.
- Make a note of their findings, where they have considered an exclusion but cannot reinstate the student, as detailed in [section 10.5](#) of this policy.

## 12. Notification of considered exclusions

- 12.1. The Governing Body will notify the parents/carers of the excluded student, the Headteacher and the LA of their decision following the consideration of an exclusion, in writing and without delay.
- 12.2. If the Governing Body decides to make the exclusion permanent, they will notify the parents/carers:
- That it is permanent, and their right for it to be reviewed by an independent review panel.
  - Of the date by which an application for review must be made, as detailed in section 14 of this policy.
  - Of the name and address of whom the review application should be submitted to:
    - **Sara Owen, Clerk to Governors**
    - **Prenton High School for Girls, Hesketh Avenue, Prenton CH42 6RR**
  - That any application should set out the grounds on which it is being made and that, where appropriate, this should include reference to how a student's SEND are considered relevant to the exclusion.
  - That, regardless of whether a student has been identified as having SEND, the parents/carers have a right to require the Governing Body to ensure a SEND specialist attends the review.
  - Of the role of the SEND expert that will attend the review, and that the parents/carers will not be charged for this.
  - That they are required to make it clear if they wish for an SEND expert to attend the review.
  - That they may appoint someone at their own expense to make representations to the panel.
- 12.3. The Governing Body will also notify parents/carers that if they believe an exclusion has been issued as a result of discrimination then they are required to make a claim under The Equality Act 2010, and that this should be within six months of when the discrimination allegedly took place.
- 12.4. After any conclusion, the Governing Body will notify the parents/carers, and all other parties involved, of the decision that was made and the reasoning for this, in sufficient detail.

### **13. Removing students from the school register**

- 13.1. The Headteacher will remove students from the school register if:
- 15 school days have passed since the parents/carers were notified of the Governing Body's decision to uphold a permanent exclusion and no application for an independent panel review has been received.
  - The parents/carers have stated in writing that they will not be applying for an independent review panel following a permanent exclusion.
- 13.2. If an application for an independent review panel has been made within 15 school days, the Headteacher will wait until the review has been determined, or abandoned, before removing the student from the school register.
- 13.3. If a student's name has been removed from the register and a discrimination claim is made, the student may be reinstated following a decision made by the First-tier Tribunal Court.
- 13.4. Whilst a student's name remains on the admissions register, the appropriate code will be used to mark the student's attendance:
- Code B: Education off-site
  - Code D: Dual registration
  - Code E: Absent and not attending alternative provision

### **14. Independent review panel**

- 14.1. The LA will review the Governing Body's decision not to reinstate a permanently excluded student, if the parents/carers submit their application for this within the required time frame.
- 14.2. Parents/carers are required to submit their applications within:
- 15 school days of the Governing Body's notification of their decision.
  - 15 school days of the final determination of a discriminatory claim made under The Equality Act 2010.
- 14.3. Any application made outside of this timeframe will not be reviewed.
- 14.4. Parents/carers are able to request an independent review panel even if they did not make a case to, or attend, the Governing Body's initial consideration of the exclusion.
- 14.5. The LA will adhere to all statutory guidelines when conducting an independent review panel, as outlined in the DfE's statutory guidance document 'Exclusion from maintained schools, Academies and student referral units in England' 2012.

### **15. Reconsidering exclusions following a review**

- 15.1. Where the independent review panel instructs the Governing Body to review their exclusion decision, they will do so within 10 school days of being given notice of the review panel's decision.

- 15.2. The school is aware that if the Governing Body does not offer to reinstate the student, then the school will be required to make a payment of £4,000 directly to the LA in which the school is located.
- 15.3. If, following a reconsideration of an exclusion, the Governing Body offers to reinstate the student but the parents/carers decline, no adjustment will be made to the school's budget.
- 15.4. Following a reconsideration, the Governing Body will notify the parents/carers, the Headteacher and, where necessary, the LA, of their reconsidered decision and the reasons for this.

## **16. Criminal investigations**

- 16.1. The Headteacher will not postpone taking a decision to exclude a student due to a police investigation being underway, or any criminal proceedings that are in place.
- 16.2. The Headteacher will give particular consideration when deciding to exclude a student where evidence is limited by a police investigation, to ensure that any decision made is fair and reasonable.
- 16.3. If the Governing Body is required to consider the Headteacher's decision in these circumstances, they will not postpone the meeting and will make a decision based on the evidence available.

## **17. Monitoring and review**

- 17.1. This policy will be reviewed on an **annual** basis by the **Headteacher** in conjunction with the **Governing Body**.
- 17.2. All members of staff are required to familiarise themselves with this policy as part of their induction programme.