

Oak Bank School Policy

Exclusion Policy



Prepared By: Mrs Rachael Freer

Review and Amendment						
By	PC	RF	RF			
Date	16/12/14	19/10/16	March 2017			
Signed						
Governor						
Date						
Signed						

Exclusions Policy

The staff and governors of Oak Bank School are committed to ensuring that ALL students who attend the school receive an appropriate education; within the context of a school that caters for students with Social, Emotional and Mental Health needs.

Most of the students who attend the school display significant and severe behaviour which can be difficult and challenging to manage. The Behaviour Policy sets out the range of strategies, rewards and sanctions that can be utilised in respect of behaviour management.

This policy sets out the principles and processes which will be followed by the staff and governors of Oak Bank in respect of the exclusion of students, either on a fixed-term or permanent basis.

The policy will be reviewed annually.

NB This policy should be read in conjunction with The DfE document: Exclusion from maintained schools, academies and student referral units in England. Statutory guidance for those with legal responsibilities in relation to exclusion.

Principles underpinning the use of exclusion

- Exclusions will be used sparingly and kept for the most serious of unacceptable behaviour
- Exclusion (which shuts students out from learning) is a serious punishment and must be used only after due consideration and consultation
- Exclusion must be based on a careful consideration thorough investigation of objective evidence, clearly documented
- Exclusion must be considered and non-retributive
- Exclusion should not be reactive
- A fair hearing will be given to all parties (right of appeal will be notified in writing where appropriate)
- Students will not lose the opportunity to take public exams at the discretion of the Governing Body.

Situations, which might reasonably lead to exclusion, include;

- ✓ Actual or potential violence by a student towards other students or adults in the school community
- ✓ Seriously disruptive behaviour over a period of time, such as might prevent the proper conduct of a class or classes, which seriously interfere with the learning opportunities of others and lead to a breakdown in school discipline
- ✓ Persistent disregard for the school behaviour plan
- ✓ Conduct which would endanger the student or other students
- ✓ Illegal or unacceptable activities such as
 - Arson
 - Drugs i.e. possessing/taking or dealing in drugs, solvent abuse
- ✓ Sexual assault or sexually inappropriate behaviour
- ✓ Grievous bodily harm
- ✓ Theft
- ✓ Physical damage/vandalism

- ✓ Alcohol i.e. drinking/in possession of or returning to school intoxicated
- ✓ Verbal or physical abuse of staff or students
- ✓ Racial abuse
- ✓ Harassment of student or staff

Exclusion should not be used for a non-disciplinary reason. For example, it would be unlawful to exclude a student simply because he or she has additional needs or a disability that the school considers it is unable to meet, or for a reason such as: academic attainment / ability; the action of a student's parents; or the failure of a student to meet specific conditions before reinstatement, such as attend a reintegration meeting."

RESPONSIBILITIES OF THE HEADTEACHER

The Headteacher's power to exclude and duty to inform parties about an exclusion.

The Use of Exclusion

- School leaders and governing bodies in maintained schools, student referral units (PRUs) academies and free schools;
- local authorities;
- academy trusts;
- independent review panel members and clerks;
- SEN experts appointed to assist independent review panels.

The principal legislation to which this guidance relates is:

- 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; and
- The Education (Provision of Full-Time Education for Excluded Students) (England) Regulations 2007.

It is this guidance that informs:

- Whether to exclude a student, for a fixed period or permanently
- The length of the exclusion
- (where applicable) whether to direct the Headteacher to re-instate an excluded student

The Decision to Exclude

- Only the Headteacher has the power to exclude a student from school

This would include someone designated as the acting Headteacher in the absence of the Headteacher

- The Headteacher cannot routinely, or on an ad hoc basis, delegate the power to exclude to another teacher.

If the recommendation for exclusion comes from a teacher or other member of staff, the Headteacher should not decide to exclude a student until they have all the relevant facts and firm evidence to support the allegations made.

Allowing students an opportunity to present their case before taking the decision to exclude will help ensure that the decision is fair, although this may not always be practicable. Headteachers should also take account of any contributing factors that are identified after an incident of poor behaviour has occurred; for example, where it comes to light that a student has suffered bereavement, has mental health issues or has been subject to bullying or other emotional stress.

This will, for example, allow the child to indicate whether, in their view, the incident was provoked by racial or sexual harassment.

The Headteacher may consult others before deciding whether to exclude, but should be careful not to involve anyone who may, at a later date, be involved with the statutory review of their decision, for example, a member of the Discipline Committee.

When establishing the facts in relation to an exclusion, the headteacher must apply the civil standard of proof and not the criminal standard of “beyond reasonable doubt”. This means that if something is more likely than not to have occurred (“on the balance of probabilities”) then the standard is met.

TYPE OF EXCLUSION

Fixed Period Exclusion

The law allows Headteachers to exclude a student for up to 45 days in a school year. However, individual exclusions should be for the shortest time necessary. Schools should take reasonable steps to set and mark work for students during the first five school days of an exclusion, and alternative provision must be arranged from the sixth day.

For a fixed period exclusion of more than five school days, the governing body must arrange suitable full- time education for any student of compulsory school age. This provision must begin no later than the sixth school day of the exclusion. Where a child receives consecutive fixed period exclusions, these are regarded as a cumulative period of absence for the purposes of this duty. This means that if a child has more than five consecutive days of exclusion, then education must be arranged for the sixth school day of exclusion regardless of whether this is as a result of more than one fixed period exclusion

Permanent Exclusion

Permanent exclusion is an extremely serious step. It is an acknowledgement by a school that it can no longer cope or has exhausted all strategies with a child. A decision to exclude a child permanently should be taken only:

- In response to a serious breach or persistent breaches of a school’s behaviour policy; **or**

- where a student's behaviour means allowing the student to remain in school would be detrimental to the education or welfare of the student or others in the school.

Drugs-related Exclusion

It is for schools to decide whether or not to exclude permanently for all incidents connected with drug misuse. Fixed period exclusions may in some cases be more appropriate. Schools need to ensure that the course of action takes into account the needs of the individuals involved (as well as their peers), both in terms of their educational and personal development and in terms of recognising that permanent exclusion may make a young person more vulnerable to exposure to drugs.

Procedures for Excluding a Student

Exclusion may only be carried out in accordance with the principles and procedures set out in , ['Exclusion from maintained schools, academies and student referral units in England Statutory guidance for those with legal responsibilities in relation to exclusion'](#) (Department for Education, January 2015)

If the Discipline Committee or the Independent Review Panel, consider when reviewing an exclusion that this guidance has not been followed they should normally direct re-instatement.

Informing Parents about the Exclusion

Where a student exhibits continuing poor behaviour and lesser sanctions have had no effect, the Headteacher should warn the student and parent of the possibility of a fixed period or permanent exclusion if the student's behaviour does not improve.

Whenever Headteachers exclude a student they must, without delay, notify parents of the period of the exclusion and the reasons for it.

They must also, without delay, provide parents with the following information in writing:

- the reasons for the exclusion;
- the period of a fixed period exclusion or, for a permanent exclusion, the fact that it is permanent;
- the parents' right to make representations about the exclusion to the governing body and how the student may be involved in this;
- how any representations should be made; and
- where there is a legal requirement for the governing body to consider the exclusion, that parents have a right to attend a meeting, be represented at this meeting (at their own expense) and to bring a friend.

Where a student is excluded from school with immediate effect during the morning session, this counts as an exclusion of half a school day for the purposes of determining the length of the exclusion.

If the Headteacher decides to extend a fixed period exclusion, or, exceptionally, to convert a fixed period exclusion into a permanent exclusion, she/he must notify the parent accordingly, in writing.

Informing the Discipline Committee

The Headteacher should inform the Discipline committee immediately of all permanent exclusions, all exclusions which result in the student missing more than five school days in total in any one term or more than ten lunchtimes, and of any exclusions which involve the loss of opportunity to take a public examination, giving the reasons for the exclusions.

The Discipline Committee may also ask for regular information about shorter exclusions, either on a termly basis or as they occur. The Headteacher should comply with any such requests.

The Governing body's duty to consider an exclusion

In the Exclusion Procedure

The governing body has a duty to consider parents' representations about an exclusion. The requirements on a governing body to consider an exclusion depend upon a number of factors.

The governing body of a maintained school may delegate their functions with respect to the consideration of an exclusion decision to a designated committee consisting of at least three governors.

Within 15 school days of receiving notice of the exclusion, the governing body must consider whether an excluded student should be reinstated in the case of:

- all permanent exclusions;
- all fixed period exclusions of students who have been excluded for more than 15 school days in the term, or who will have been as a result of the exclusion; and
- all fixed period exclusions that would result in a student missing a public examination or national curriculum test.

Where an exclusion would result in a student missing a public examination or national curriculum test there is a further requirement for the governing body, so far as is reasonably practicable, to consider the exclusion before the date of the examination or test. If this is not practicable, the chair of governors may consider the exclusion independently and decide whether or not to reinstate the student. In such cases parents still have the right to make representations to the governing body and must be made aware of this right.

For all other fixed period exclusions where a student would be excluded for more than five school days in the term and their parents have made representations, the governing body must consider within 50 school days of receiving notice of the exclusion whether the excluded student should be reinstated.

In the absence of any representations from the excluded child's parents, the governing body is not required to meet and cannot direct the reinstatement of the student.

Where a fixed period exclusion would not bring a student's total number of days of exclusion to more than five in the term, the governing body must consider any representations made by parents, but it cannot direct reinstatement and is not required to meet the parents.

The process for considering the reinstatement of an excluded student

Where the governing body is legally required to consider the reinstatement of a student the following parties must be invited to a meeting of the governing body and allowed to make representations:

- parents (and, where requested, a representative or friend);
- the headteacher; and
- a representative of the local authority

The governing body must take reasonable steps to arrange the meeting for a date and time that is convenient to all parties, but in compliance with the relevant statutory time limits set out above. However, its decision will not be invalid simply on the grounds that it was not made within these time limits.

When arranging the meeting the governing body must also have regard to its duty to make reasonable adjustments for people who use the school and consider what reasonable adjustments should be made to support the attendance and contribution of parties at the meeting (for example where a parent or student has a disability in relation to mobility or communication that impacts upon his / her ability to attend the meeting or to make representations).

In deciding whether to reinstate the student, the governing body must consider not only the representations made but also the interests and circumstances of the excluded student, including the circumstances in which the student was excluded. It must also have regard to the interests of other students and people working at the school.

When establishing the facts in relation to an exclusion the governing body must apply the civil standard of proof and not the criminal standard of "beyond reasonable doubt". This means that if something is more likely than not to have occurred ("on the balance of probabilities") then the standard is met. In the light of its consideration, the governing body can either:

- uphold an exclusion; or
- direct reinstatement of the student immediately or on a particular date.

Where reinstatement is not practicable because, for example, the student has already returned to school following the expiry of a fixed period exclusion or the parents make clear they do not want their child reinstated, the governing body must, in any event, consider whether the headteacher's decision to exclude the child was justified based on the evidence.

The governing body's consideration should only be delayed where there are exceptional circumstances that prevent it from considering the exclusion within the statutory time limits. In these circumstances, the consideration should take place as soon as is practicable.

When arranging a meeting to consider the reinstatement of the excluded student, the governing body should:

- not discuss the exclusion with any party outside the meeting;

- ask for any written evidence in advance of the meeting (including witness statements and other relevant information held by the school, such as those relating to a student's SEN);
- where possible, circulate any written evidence and information, including a list of those who will be present, to all parties at least five school days in advance of the meeting;
- allow parents and students to be accompanied by a friend or representative (where a student under 18 is to be invited as a witness, the governing body should first seek parental consent and invite the parents to accompany their child to the meeting);
- identify the steps it will take to enable and encourage the excluded student to attend the meeting and speak on his / her own behalf (such as providing accessible information or allowing them to bring a friend), taking into account the student's age and understanding; or how the excluded student may feed in his / her views by other means if attending the exclusion meeting is not possible.

Statutory guidance to governing bodies on the consideration of an exclusion decision

The governing body should identify the steps it will take to ensure all parties will be supported to participate in its consideration and have their views properly heard. This is particularly important where students under 18 are speaking about their own exclusion or giving evidence to the governing body.

The governing body should ensure that clear minutes are taken of the meeting as a record of the evidence that was considered by governing body. These minutes should be made available to all parties on request.

The governing body should ask all parties to withdraw before making a decision. Where present, a clerk may stay to help the governing body by reference to his / her notes of the meeting and assist with the drafting of the decision letter.

In reaching a decision on whether or not to reinstate a student, the governing body should consider whether the decision to exclude the student was lawful, reasonable and procedurally fair, taking account of the headteacher's legal duties and the evidence that was presented to the governing body in relation to the decision to exclude.

The governing body should note the outcome of its consideration on the student's educational record, along with copies of relevant papers for future reference.

In cases where the governing body considers parents' representations but does not have the power to direct a student's reinstatement, it should consider whether it would be appropriate to place a note of its findings on the student's educational record.

Claims of discrimination to the First-tier Tribunal or County Court can be made up to six months after the discrimination is alleged to have occurred. Where practicable, schools should retain records and evidence relating to an exclusion for at least six months in case such a claim is made.

Where legally required to consider an exclusion decision, the governing body must notify parents, the headteacher and the local authority of its decision, and the reasons for it, in writing and without delay. Where the student resides in a different local authority from the one in which the school is located, the governing body must also inform the student's "home authority".

In the case of a permanent exclusion where the governing body decide not to reinstate the student, the governing body's notification must also include the information below:

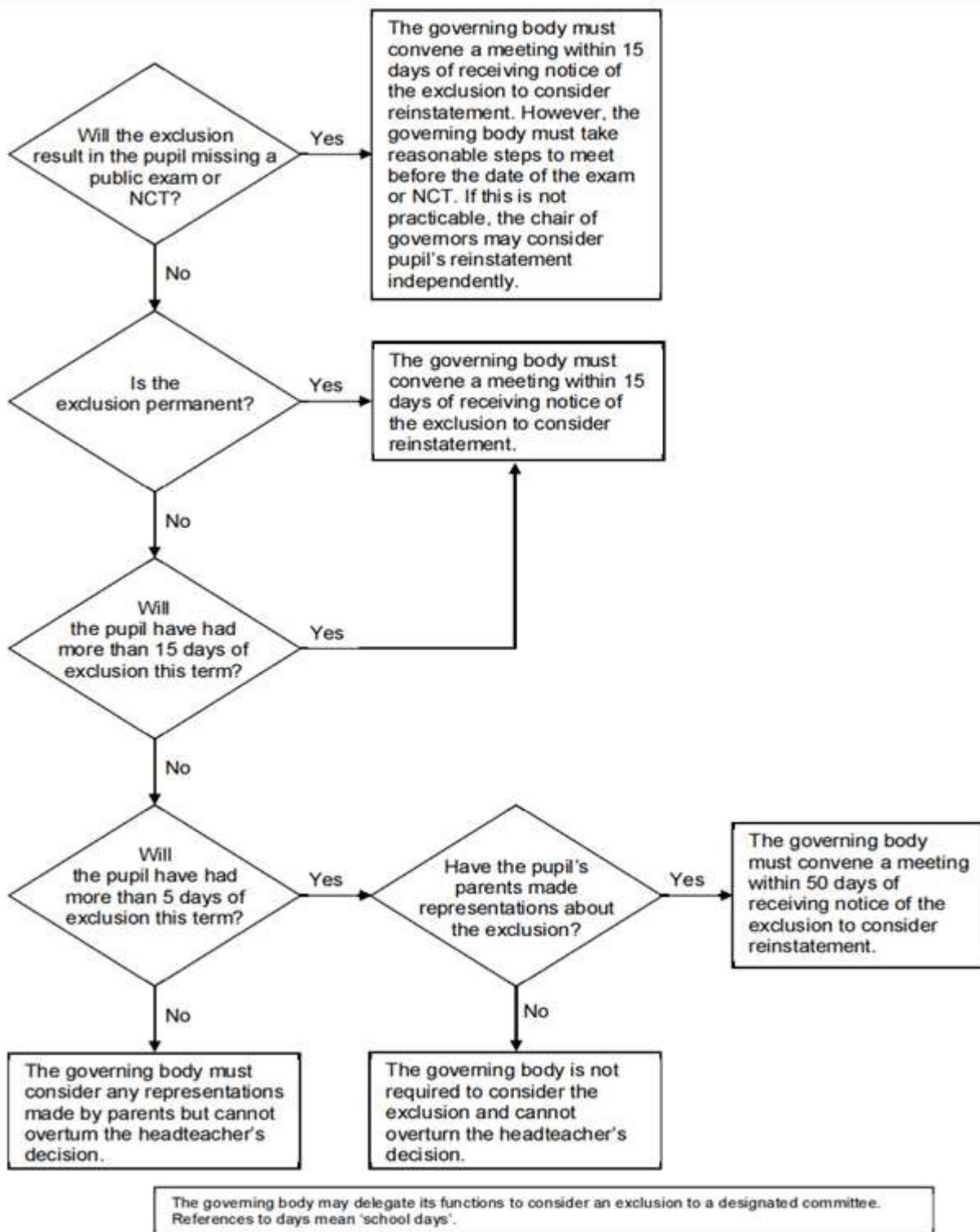
- that the exclusion is permanent;
- the parents' right to ask for the decision to be reviewed by an independent review panel and the following information:
 - the date by which an application for a review must be received (i.e. 15 school days from the date on which notice in writing of the governing body's decision was given to parents);
 - where and to whom an application for a review (and any written evidence) should be submitted;
 - that any application should set out the grounds on which it is being made;
 - that, regardless of whether the excluded student has recognised special educational needs, parents have a right to require the local authority / academy trust to appoint an SEN expert to attend the review;
 - details of the role of the SEN expert; that parents must make clear if they wish a SEN expert to be appointed in any application for a review; and
 - that parents may, at their own expense, appoint someone to make written and / or oral representations to the panel and that parents may also bring a friend to the review.
- That, in addition to the right to apply for an independent review panel, if parents believe that the exclusion has occurred as a result of discrimination then 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.
- That a claim alleging discrimination under the Equality Act 2010 should be lodged within six months of the date on which the discrimination is alleged to have taken place, e.g. the day on which the student was excluded.

The governing body may provide the information above in writing by: delivering it directly to parents; leaving it at their last known address; or by sending it by first-class post to this address.

The governing body should set out the reasons for its decision in sufficient detail to enable all parties to understand why the decision was made.

The Local Authority will notify parents of their right to an Independent Review Panel.

A summary of the governing body's duties to review the headteacher's exclusion decision



Stages in the Exclusion Procedure

Stage 1; Warning

The head should warn the student and the parent of the possibility of a fixed period or permanent exclusion if the student's behaviour does not improve



Stage 2: Investigation

The headteacher should not decide to exclude a student until he/she has all the relevant facts and firm evidence. The student should be interviewed.



Stage 3: Exclusion by headteacher

The headteacher

1. Decides to exclude the student
2. Notifies the parent (on the day of the exclusion)
3. If exclusion is more than 5 days or totals over 5 days, the headteacher immediately notifies the governors
- 4 Arranges for the student to be given school work to do at home and for this to be marked



Fixed term exclusions
(5 days or fewer)



Exclusion
(more than 5 days or totalling
more than 5 days in any one
term) + permanent exclusions

Stage 4

Stage 4 Governors' Discipline Committee

<p>1. If the parent makes representations, the governing body has a duty to consider the representations through the Discipline Committee</p>	<p>1. The Clerk to the Discipline Committee convenes a meeting of at least 3 governors previously nominated by the GB, to consider the action taken by the headteacher, and notifies the parent, head teacher and LA of the meeting.</p>
<p>2. Where an exclusion is for 5 days or fewer but would result in the student missing the opportunity to sit a public examination, the Discipline Committee should meet before the public examination in question and the minimum time limits do not apply</p>	<p>2. The Discipline Committee meets to consider the action taken by the headteacher, receives and representations from the parent & LA and decides whether the student should be reinstated or the exclusion upheld. 3. If a permanent exclusion is upheld, the clerk to the Discipline Committee then notifies the parent of the Discipline Committee's decision and their right of appeal to an independent appeal panel.</p>