

# EXCLUSION POLICY

2024-2025



**Sedgehill Academy**

The best in everyone

Part of United Learning

Owner	Clare Cassidy
Date Ratified by Governing Body	October 2024
Next Review Date	September 2025

## Suspension from school

This policy should be read in conjunction with the Behaviour Policy and Home-School agreement. To ensure good order and behaviour for learning it may be necessary to suspend students from attending school or to permanently exclude them. Suspension and exclusion is the ultimate sanction and is always the decision of the Principal alone or in his/her absence, the designated teacher in charge. At Sedgehill Academy we do everything we can to avoid suspending children.

There are two types of official exclusion:

### 1. Suspensions

This is a suspension for a **fixed number of days**. The pupil must remain at home up to the first 5 days (during which time the school should take reasonable steps to set and mark work for the pupil). For a suspension of more than 5 days, full time education provision commences from the 6<sup>th</sup> day and must be organised by the excluding school. A pupil is entitled to return to school once the period of suspension has ended.

A pupil may not be excluded for more than **45 days** in a school year. Where this threshold has been met and there are further breaches of the school's behaviour policy that would warrant a suspension, the school cannot issue a FTS but could instead permanently exclude the child on the basis the 'persistent breaches' criteria has been met - see below (2b). Schools must ensure they have a reliable method for **tracking** the number of suspensions in an academic year, including from any previous schools.

A pupil may be suspended during **lunchtimes** for a **fixed number of days**. Each lunchtime suspension is equivalent to half a day's suspension. Arrangements will be made to provide a lunch if the pupil is entitled to free school meals.

**Repeated use of suspension for children with an EHCP or disability** (and potentially those on SEN Support – especially those undergoing statutory assessment and likely to get an EHCP) could be considered ineffective or failing to sufficiently meet a child's needs. There is an expectation that where this is occurring, schools ensure the SENCO is involved as part of a behaviour intervention and planning process to elicit different approaches to improving the child's behaviour. This may involve advice from colleagues and specialists such as an educational psychologist, speech and language therapist etc.

### 2. Permanent Exclusion

This is where the Principal/Headteacher's decision is that the pupil should not be allowed to return to the school. The decision should only be taken if:

- (a) the pupil has committed a serious breach or persistent breaches of the school's behaviour policy; and
- (b) allowing the pupil to remain in the school would seriously harm the learning or welfare of the pupil or others such as staff or pupils in the school;

In most cases, this will be after a wide range of alternative strategies having been tried without success. However, there will be exceptional circumstances where, in the Principal's judgement, it might be appropriate to permanently exclude a child for a single serious breach (one-off or first offence). Examples of misconduct that might be considered as a serious breach are set out in Appendix 1.

Each case must be judged on the facts and the context taking into account:

- The degree of severity of the offence;
- The likelihood of reoccurrence (including a consideration of the student's previous behavioural record – taking care to be clear what behavioural incidents the pupil is actually being excluded for);
- Contributory factors (e.g. recent bereavement, mental health issues, bullying) harassment);
- Support provided, including with specific reference to special educational needs and disabilities (see above) and LAC status (see above);
- Preventative measures to a school exclusion including an off-site direction or a managed move
- The school behaviour policy, special educational needs policy and equality law obligations.
- The pupil's views considering these in light of their age and understanding, unless it would not be appropriate to do so.

On considering a permanent exclusion, the Principal/Headteacher should immediately contact their relevant Regional Director before making their decision. Where that is not possible, the Principal should contact the Education Director to sense check their decision. If this is not possible, the Principal should issue the permanent exclusion which can be rescinded if necessary (but only before the Behaviour Committee reviews it). Consequently, the Principal should not issue a suspension whilst waiting to speak to their Regional Director if their view is that a permanent exclusion is the appropriate course of action. A suspension cannot be turned or "converted" into a permanent exclusion except in exceptional cases, usually where further evidence has come to light, where a permanent exclusion can be issued to begin immediately after the end of the suspension.

### **3. Unofficial exclusions**

Formal exclusion is the only legal method of removal if a pupil is sent home for disciplinary reasons (including lunch times). ***"Informal or unofficial exclusions are unlawful"*** regardless of whether they are done with the agreement of parents or carers.

We work closely with two other schools so that students can attend their internal suspension unit in appropriate circumstances. A policy and protocol is in place for this and it is always discussed and agreed with parents in advance.

### **4. Study Leave**

Year 11 do not go on study leave until the week before GCSE examinations begin. Students are allowed to revise at home during this exam period if they do not have an examination. The Academy will still expect students to attend organised revision sessions during this time if requested. In exceptional circumstances study leave may be agreed to commence before this period. This would only occur following a meeting between a member of the Senior Leadership Team, and the student's parents. During this meeting another agreement would be signed by the parent and a letter would be sent by the Principal to confirm the agreement.

## Stages of exclusions

### 1. Permanent exclusions

The permanent exclusion process falls into **three stages**:

1. Decision by the Principal to exclude.
2. Consideration of the Principal's decision by the Local Governing Body (LGB), usually delegated to a Behaviour Committee.
3. In the case of a permanent exclusion, and only if requested by parents, consideration of the Principal's decision by an Independent Review Panel.

The initial decision on whether to exclude is for the Principal to take. As part of considering a permanent exclusion, as stated above, the **Principal is expected to discuss this with the relevant Director at United Learning *before*** making their decision.

### 2. Suspension or Permanent?

If sufficient evidence is available to warrant a permanent exclusion immediately, that sanction should be applied. However great care should be taken in issuing a permanent exclusion immediately and United Learning's procedure must also be followed as specified above.

In some cases investigation may not be immediately possible if, for example, the incident is complex and a number of witness statements are required.

In such a case, the Principal may issue suspension for a short period (a maximum of 5 school days is advised):

- to allow investigation to take place; and
- to give opportunity for a reasoned decision.

In those exceptional cases, usually where significant further evidence emerges from further investigation, a further sanction may be appropriate, which must be issued to begin immediately after the first fixed term suspension ends (i.e. the student must not return to school between the sanctions). This further sanction may be either further fixed term suspension or a permanent exclusion.

The letter informing of the initial suspension should clearly state that the reason for the suspension relates to the behaviour of the student, but also state if further investigation is needed that **"further investigation is still underway into the incident which may or may not result in a further sanction of further suspension or permanent exclusion"**. Once the investigation is complete, a further letter should be sent containing one of the following;

- notification for the pupil to return to school;
- notification of a further suspension to begin immediately after the first period ends; or

- notification of a permanent exclusion to be begin immediately after the end of the fixed term exclusion.

### **3. Behaviour outside School**

Subject to the requirements of this guidance, the Principal (or designated teacher in charge) may suspend or otherwise sanction students even if the circumstances giving rise to suspension occur when the student is out of school, provided that behaviour is relevant to the maintenance of good behaviour in the school. Schools' own policies should make clear how this operates in practice, in line with the DfE guidance.

### **4. Police Involvement and Parallel Criminal Proceedings**

The process of exclusion from school and criminal proceedings can, and should, run parallel. However, in certain circumstances it may be appropriate for a decision to permanently exclude to be postponed if a police investigation has not been concluded. In such circumstances, an extended suspension should be used. It is also critical that a school does not undermine the evidence gathering in a parallel police investigation: the school should consult with police before carrying out its own investigation.

## **Responsibilities of the Principal**

Principals should follow the procedures set out in the DfE Suspension Guidance, which has been designed to ensure fairness and openness in the handling of exclusions. Following the guidance will reduce the chance of any successful legal challenge to the suspension at a later stage.

### *When the Headteacher is out of School: the role of the acting head teacher*

The DfE guidance is clear that only the head teacher, or the acting head teacher, can exclude a pupil. If the exclusion is made by another person it risks being challenged on the grounds that it is unlawful. The potential for schools to get this wrong is increasing with head teachers more likely to work in more than one school (Executive Heads), work part time or work condensed hours, and attend off site meetings. The DfE guidance is clear that an acting head teacher **can** carry out an exclusion in the scenario whereby the head is not in school. It is essential that this person has been appointed to carry out the function of the head teacher in their absence, and it does not follow that this is automatically the deputy head: it requires affirmative action rather than a default position.

Where head teacher absences are short term, the necessary 'appointment' can be documented by way of a scheme of delegation which makes clear which post-holder (rather than named individual) assumes the acting head teacher role and under what circumstances e.g. the head teacher is off site for a specified period and cannot be contacted or will not return within a meaningful period of time. This should be cross-referenced in the relevant job description and contract of the post holder. As such, when the head teacher is then absent in defined circumstances, the appointment of an acting head teacher has automatically been triggered once it has been established that the circumstances apply and without any further action.

For longer term absences, e.g. where there is no head teacher in post or for long periods or foreseeable absence which may not be covered in the scheme of delegation, the school should look at a more formal appointment to cover the specific situation. Again, this should be formally documented.

All schools must be clear on how the position of acting head teacher is appointed so as to avoid challenge on the grounds of illegality to any exclusion decisions made in the head teacher's absence.

## Role of the LGB (Local Governing Body)

The United Learning Trust Charity Board has delegated powers to the LGB to review exclusions and the LGB must consider any representations about a exclusion made by the parents of the excluded pupil. The LGB usually delegates some or all of its functions in respect of exclusions to a committee consisting of at least three governors, who are independent and have had no direct involvement with the case; such a committee may be called the Behaviour Committee.

The LGB's role is to review exclusions, either on parental request or because required to do so by law and the following different requirements apply to different types of exclusion.

- In the case of a suspension which does not bring the pupil's total number of days of exclusion to more than five in a term, the governing board must consider any representations made by parents, but it cannot direct reinstatement and is not required to arrange a meeting with parents.
- If the pupil will be suspended for more than five but less than 15 school days in the term, and only if the parents make representations, the governing board must consider within 50 school days of receiving the notice of exclusion whether the excluded pupil should be reinstated.
- The LGB / Behaviour Committee must (whether the parent requests it or not) consider the reinstatement of an excluded pupil within 15 school days of receiving notification of the exclusion if:
  - The exclusion is permanent; or
  - It is a suspension which would bring the pupil's total number of school days of suspension to more than 15 in a term; or
  - It would result in a pupil missing a public examination or national curriculum test.

A checklist for Behaviour Committees is available in the appendices. This should be used when making the final decision for every permanent exclusion.

The Behaviour Committee can only uphold or overturn the exclusion imposed by the Principal. It cannot extend a suspension nor substitute it with a permanent exclusion.

The Behaviour Committee must inform the parent, Principal and the Local Authority of their decision, in writing without delay, preferably within one school day of the meeting, stating their reasons. Where the pupil resides in a different Local Authority to the one in which the school is based, they must also inform the pupil's 'home' authority.

A note of the Behaviour Committee's views on the suspension/exclusion should be placed on the pupil's school record with copies of relevant papers.

If the Behaviour Committee directs reinstatement, this should take place as soon as possible. No conditions can be attached to any direction to reinstate the pupil save that the Committee can direct reinstatement on a particular date.

Where the Behaviour Committee upholds a permanent exclusion, there are specific requirements for what information should be included in the letter to parents. Model letters are contained in the appendices.

## **Role of the Clerk to the Behaviour Committee**

The Behaviour Committee may appoint a Clerk. The Clerk must not be a member of the governing body or the Principal.

The role of the Clerk is to handle the administrative arrangements for considering suspensions/exclusions. The Clerk should not have taught the pupil or been involved in any of the incidents involved in the case, and should not contribute to the meeting other than in an administrative capacity. Where possible the Clerk should be experienced in suspension/exclusion matters so that the meeting can progress smoothly.

## **The role of United Learning**

The Local Authority does not have a decision-making role in the exclusion process for any United Learning school. The United Learning Trust Board has delegated this responsibility to each LGB. As part of considering each permanent exclusion, however, the Principal must consult fully with the relevant Director before making their decision and the case presented to the Behaviour Committee.

It is the LGB/ Behaviour Committee which has the duty to review the Principal's decision to exclude (see above).

## **Education of excluded pupils**

The school's obligation is to ensure education continues while the pupil is on roll. In all cases of exclusion, work should be set from day one and marked. Where a pupil is given a suspension of six school days or longer, the school must arrange full time educational provision from and including the sixth day of exclusion. The Local Authority is required to arrange full time educational provision for permanently excluded pupils from the sixth day of a permanent exclusion. Once a Principal has decided to permanently exclude a pupil, the Local Authority will arrange to assess the pupil's needs and how to meet them (even though the exclusion might still be overturned by the Behaviour Committee). The pupil's name will be deleted from the school roll only if:

- (i) the pupil was permanently excluded; and
- (ii) 15 school days have passed since the parents were notified of the Behaviour Committee's decision to uphold the permanent exclusion and no application has been made for an independent review panel; or
- (iii) the parents have stated in writing they will not be applying for an independent review panel.

It is the responsibility of the Local Authority to offer an alternative school place.

## **Independent Review Panels**

Each LGB must take responsibility for setting up and training Independent Review Panels. It is strongly recommended that LGBs either commission an external provider who offers this service<sup>1</sup> or make arrangements to use the service provided by the Local Authority. This is because the requirements for panel

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<sup>1</sup> A number of schools have used [Clerks Associates](#) for this and have found them very helpful.

membership are very specific and extensive, and must meet strict timelines. Note that the independent review panel is only involved in reviewing permanent exclusions and only if requested by the parent/carer of the excluded pupil, and/or the pupil if over 18.

### **1. Notifying parents**

When a permanent exclusion is upheld by the Behaviour Committee, the Committee's decision letter to the parent must state the reasons for the decision, give the last day for lodging a review (within 15 further school days<sup>2</sup>) and explain that the grounds for the review should be set out in writing. If a parent does not request a review within the timescales the LGB must reject the application.

### **2. The timing of the hearing**

An independent review panel must meet to consider an exclusion no later than the 15th school day after the day on which the review was requested. However, only if strictly necessary, the panel may then decide to adjourn the hearing to a later date.

### **3. Composition of Independent Review Panels**

Review panels must consist of 3 or 5 members.

A five member panel must be constituted with two members from each of the categories of school governors and head teachers.

- 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 five years, provided they have not been teachers or head teachers during this time.
- Head teachers or individuals who have been a head teacher within the last five years.

All panel members, including the clerk, must have received training within the two years prior to the date of the review. The DFE statutory guidance details what this training must have covered (page 33).

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

- They are a member / director of the local authority / Academy Trust or governing body of the excluding school,
- are the head teacher of the excluding school or anyone who has held this position in the last five years,
- are an employee of the local authority / Academy Trust, or the governing body, of the excluding school (unless they are employed as a head teacher at another school),
- have, or at any time have had, any connection with the local authority / Academy Trust; school; parents or pupil; or the incident leading to the exclusion, which might reasonably be taken to raise

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<sup>2</sup> Or within 15 days of the final determination of a claim of discrimination in relation to the exclusion to the first tier Tribunal.



doubts about their impartiality (though an individual must not be taken to have such a connection simply because they are a head teacher at another school) or

- have not had the required training within the last two years (see paragraph 116 of Exclusion from maintained schools, Academies and pupil referral units in England guidance)
- 4. Request for a SEN Expert** (see section 8.5 of Exclusion from maintained schools, Academies and pupil referral units in England guidance). If requested by the parents, the person convening the panel must appoint a SEN Expert to attend the independent review panel. Parents have a right to the above, regardless of whether their child has recognised or identified SEN.

## Role of the Clerk to the Independent Review Panel

It is strongly advised that the independent review panel has a Clerk. The Clerk, if appointed, provides an independent source of advice on procedures and law for all parties.

## Conduct and role of the Independent Review Panel

The role of the panel is to review the Behaviour Committee's decision not to reinstate a permanently excluded pupil. The panel must take account of the circumstances of the excluded pupil and all others in the school. The panel must apply the civil standard of proof (the balance of probabilities).

### 1. Reaching a decision

Information on what the panel should consider when coming to their decision can be found in section 9 of the [DFE Guidance on Exclusions](#).

### 2. The decision

An independent review panel can decide to:

- uphold the Behaviour Committee's decision;
- recommend that the Behaviour Committee reconsiders reinstatement; or
- quash the decision and direct that the Behaviour Committee reconsiders reinstatement.

The panel's decision can be decided by a majority vote. The panel can request that a copy of the decision letter is placed on the pupil's record and the school must comply with this request.

The panel may only quash a decision and direct reconsideration where it considers that the exclusion was flawed when considered in the light of one or more of the principles applicable on an application for judicial review, which are illegality, irrationality and procedural impropriety.

### 3. Financial Penalties

Where a panel directs the LGB to reconsider its decision it has the power to order that a readjustment of the academy budget be made if the governing body does not offer to reinstate the pupil within 10 school days of

receiving notification. The sum of this adjustment must be £4000, payable within 28 days, and will be in addition to other monies that follow permanently excluded pupils.

#### **4. After the Independent Review Panel**

The independent review panel is independent. Its decision is binding on the parent, the LGB and the Principal. The panel cannot revisit its decision once made.

The panel must let all parties know its decision without delay. The decision letter should give the panel's reasons for its decision in sufficient detail for the parties to understand why the decision was made.

If the panel upholds the permanent exclusion, the Clerk should immediately report this to the Local Authority. If the pupil lives outside the area of the Local Authority, the Clerk should make sure that the home Authority is also informed immediately of the position. If the pupil is of compulsory school age, it is for the Local Authority in whose area the pupil lives to make arrangements as quickly as possible for the pupil to continue in suitable full-time education.

Where the exclusion is upheld the Clerk should also advise the parent to contact the appropriate person at the home Local Authority about arrangements for their child's continuing education. The Principal should remove the pupil's name from the school roll the day after the conclusion of the independent review panel.

#### **5. Reconvening a Behaviour Committee**

If the independent review panel directs or recommends that the LGB reconsider the exclusion, the LGB must meet to reconsider within 10 school days of notification. The DfE Exclusion Guidance gives specific advice as to what the further meeting of the LGB should involve and the requirement that the LGB must have serious justification for continuing to support the exclusion. Where the LGB has reconsidered an exclusion decision it must inform the relevant person, the Principal and the Local Authority of its reconsidered decision and the reasons for it without delay.

#### **6. Remedies after the Independent Review Panel**

A parent can complain to the Secretary of State via the Education and Skills Funding Agency at the Department for Education.

Decisions of both governing bodies and independent review panels can be subject to judicial review. If this occurs, immediate legal advice must be sought.

#### **7. Claims of Discrimination in relation to exclusion**

Parents can also apply to the First-tier tribunal to hear cases of alleged disability discrimination, in addition to their current right to apply to a County Court to hear other cases of discrimination under the Equality Act 2010. The First-tier Tribunal will be able to direct reinstatement.

# APPENDICES

## Appendix 1      Examples of Misconduct that May Lead to Permanent Exclusion

Permanent exclusions are extremely serious and should only be used in exceptional circumstances. Permanent exclusions should only be in response to persistent misconduct of a serious nature, where other sanctions have been attempted and not resulted in improved behaviour and conduct.

There are a few single incidents that may lead to a permanent exclusion. These include (but are not restricted to) the follow categories:

- a serious breach of safety requirements likely to endanger other people or yourself;
- possession, use or supply (or the intended possession, use or supply) of:
  - Alcohol
  - Tobacco (including vapes and other liquid electronic smoking materials)
  - Illegal drugs (see Home Office controlled drugs list [here](#))
  - So-called “legal high” drugs including those which are edible (and whether they are technically legal or illegal) and/or anything pertaining to be a drug.
- stealing from the academy, employees of the academy, or from students;
- intentional damage to property;
- very serious / extreme abuse of the academy’s computer system and of the internet;
- sexual misconduct, abuse or assault;
- serious actual or threatened violence or physical assault against another pupil, member of staff or worker in the academy;
- carrying an offensive weapon (defined as any item made or adapted for causing injury);
- very significant / extreme bullying and/or harassment including racial, sexual or homophobic (or any other Equality Act protected characteristic) grounds;
- extreme defiance of the properly exercised authority of the academy and its staff;