

BEHAV-06-EXCLUSION

Heart of England is committed to being a fully accessible and inclusive school. The organisational focus on respect for equality is central to our vision of creating futures. Our core values underpin a safe and caring educational environment where all are able to achieve their personal best.

The school's core purpose is learning and our high expectations are clarified in the behaviour policy. Parents and carers agree to support these values and expectations in the home/school agreement.

Rationale

“Good discipline in schools is essential to ensure that all pupils can benefit from the opportunities provided by education. “ Department for Education - Exclusion Guidelines

In this policy the Governing Body aims to discharge appropriately its statutory duties as set out in the Department for Education Statutory “Guidance for those with legal responsibility for exclusion.”

Introduction

Exclusion is a sanction only used by the Principal (or in the absence of the Principal, the Vice Principal who is acting in that role). Before deciding whether to exclude a student either permanently or for a fixed period the Principal will ensure that:

Appropriate investigations have been carried out to establish the facts

- a) All the evidence available has been considered and the civil standard of proof applied
- b) That statutory guidance on exclusions, the Equality Act 2010 and the SEND code of practice has been followed

Having considered these matters the Principal (or Vice Principal acting in that role) will make a decision on exclusion based on the balance of probabilities established and in line with the principles of administrative law. In reaching a decision each case will be considered on its own merit taking into account the complexity of individual context and mitigation.

Exclusion may be used for any of the following, all of which constitute examples of unacceptable conduct, and are infringements of the School's Behaviour Policy:

- Verbal abuse: including discriminatory, prejudicial or racist abuse
- Physical abuse
- Indecent behaviour
- Damage to property
- Endangering the safety/welfare of others (including serious breaches of COVID 19 guidelines)
- Possession or use of weapons / dangerous objects, banned substances, stolen items, theft
- Bullying
- Repeated failure to follow instruction

- Repeatedly disrupting/harming the education of others

This is not an exhaustive list and there may be other situations for which exclusion is judged an appropriate sanction. Exclusions can be either fixed term or permanent. All exclusions will be issued in line with the Department for Education's guide for those with legal responsibilities in relation to exclusion.

Permanent Exclusion

The decision to exclude a student permanently could be taken in the following circumstances:

- a) In response to a serious breach, or persistent breaches, of the School's Behaviour Policy; and
- b) Where allowing the student to remain in school would seriously harm the education or welfare of the student or others in the school.

Equality Act 2010

All decisions 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'.

Alternatives to Exclusion

The school will work closely with other local secondary schools to undertake managed moves where such a course of action is deemed appropriate and agreed by the parent/carer and schools concerned. The threat of a permanent exclusion will not be used as the means to persuade parents/carers to move their son/daughter to another school.

Behaviour Outside School

The behaviour of pupils outside school can be considered as grounds for exclusion. This will be a matter of judgement for the Principal (or Vice Principal acting in this role) in accordance with the school's behaviour policy.

Drug Related Exclusions

In making a decision on whether or not to exclude for a drug-related offence the Principal will have regard to the school's published policy on drugs and will also seek advice from the Local Authority's Drugs Education Adviser.

COVID 19 ADDENDUM

Guidance up to 24th September 2021

All expulsions occurring between 25 September 2020 and 24 September 2021 (inclusive of those dates) are subject to amended arrangements with regards to:

- the use of remote access technology (for example, videoconferencing or telephone conferencing software) for meetings of governing boards or independent review panels
- the deadline for applications for an independent review

Governing boards and independent review panels (IRPs) who have a duty to meet to discuss an expulsion that occurred between 25 September 2020 and 24 September 2021 may be eligible for time extensions in some circumstances.

Meetings relating to expulsions occurring between 25 September 2020 and 24 September 2021 must take place within the normal timescales described in the [suspensions and expulsions from maintained schools, academies and pupil referral units in England statutory guidance](#).

Governing boards and arranging authorities for IRPs should take all reasonable steps to meet the normal deadlines for suspensions and expulsions occurring after 24 September 2020.

They should:

- consider the [actions for schools during the coronavirus \(COVID-19\) outbreak](#)
- facilitate remote access meetings where it is not reasonably practicable to meet in person

If the deadlines are missed because of coronavirus (COVID-19), the meeting must be held as soon as it becomes reasonably practicable to meet either in person or via remote access (respecting the conditions for such a meeting).

An expulsion should be taken as having 'occurred' on the first day of the expulsion.

Any expulsions covered by these arrangements will continue to be subject to them until the procedures for scrutiny of the expulsion have been exhausted.

Timescales for expulsions between 25 September 2020 and 24 September 2021

Expulsions between 25 September 2020 and 24 September 2021 (inclusive) should follow the deadlines in the [suspensions and expulsions from maintained schools, academies and pupil](#)

[referral units in England statutory guidance](#), other than the deadline for the application of an independent review.

If it is not reasonably practicable to meet by the usual deadline either in person because of coronavirus (COVID-19), or by remote access because of the conditions for a remote access meeting, the meeting must not be delayed any longer than is reasonably necessary because of coronavirus (COVID-19).

Timescales for expulsions between 1 June 2020 and 24 September 2020

Governing boards and IRPs who have a duty to meet to discuss an expulsion that occurred between 1 June 2020 and 24 September 2020 may be eligible for time extensions.

Meetings relating to expulsions occurring between 25 September 2020 and 24 September 2021 must take place within the normal timescales described in [suspensions and expulsions from maintained schools, academies and pupil referral units in England](#). If the deadlines are missed because of coronavirus (COVID-19), the meeting must be held as soon as it is reasonably practicable to meet in person or via remote access (respecting the conditions for such a meeting).

Timescales for meetings of independent review panels to consider expulsions

The timescale for the meeting will be extended to 25 school days, or as long as reasonably necessary for a reason related to coronavirus (COVID-19) if:

- the expulsions occurred between 1 June 2020 and 24 September 2020
- it has not been reasonably practicable for a review panel to meet in person within the original time limit of 15 school days for reasons related to coronavirus (COVID-19)
- it has not been reasonably practicable to meet via remote access for a reason relating to the conditions for a remote access meeting

To minimise uncertainty for pupils and their families, the arranging authority should reassess at regular intervals whether it is reasonably practicable to meet. If it is, they should arrange this without delay.

Remote meetings

For expulsions occurring between 25 September 2020 and 24 September 2021 (inclusive of those dates), meetings of governing boards or IRPs should be held via remote access if:

- it is not reasonably practicable for the meeting to take place in person, within the usual timescales, due to coronavirus (COVID-19)
- the governing board, or arranging authority for IRPs, is satisfied that:
- all the participants agree to the use of remote access
- all the participants have access to the technology which will allow them to hear and speak throughout the meeting, and to see and be seen, if a live video link is used
- all the participants will be able to put across their point of view or fulfil their function

- the meeting can be held fairly and transparently via remote access

The governing board, or arranging authority for IRPs, is responsible for ensuring that these conditions are met before a meeting takes place. Those who have no intention of taking part in the meeting should not be treated as ‘participants’ for the purposes of the conditions.

When determining if it’s practicable to meet in person, the governing board or arranging authority should assess:

- the facts of the case
- the circumstances in which a meeting in person could be expected to take place
- the needs of the intended participants, as far as this is possible
- the latest public health guidance, including the [actions for schools during the coronavirus \(COVID-19\) outbreak](#)

Arranging a remote access meeting

The governing board or arranging authority should explain the technology they propose to use to make sure that the participants, particularly pupils and their families, know that they do not have to agree to a meeting to be held via remote access.

They should make families aware that if they do not consent to a remote access meeting then the meeting is likely to be delayed.

Where a parent or pupil has given their agreement for a meeting to be held via remote access, the other participants should accommodate that preference except in exceptional circumstances.

Governing boards, arranging authorities and panel members must:

- comply with relevant equalities legislation
- recognise that some participants may find it difficult to participate in a remote access meeting, for example if they have a disability or if English is not their first language

The governing board or arranging authority should take reasonable steps to facilitate a parent, child or young person’s access to the technology required.

If a governor, trustee, panel member or other participant requires support to access or use remote access technology, the governing board or arranging authority should facilitate this to ensure the meeting can be held promptly.

Fairness and transparency

The governing board or arranging authority must assess whether a meeting can be held fairly and transparently via remote access with reference to the facts of each case. It cannot be decided by following a general policy.

If a governing board or arranging authority is not satisfied that a meeting can be held fairly and transparently via remote access, they should consider using reasonable adjustments to overcome this. They should consult with parents and pupils to take account of their wishes.

In rare cases, a governing board or arranging authority may conclude that a remote meeting would not be fair and transparent, even if the participants have given their consent for a remote

access meeting. In such cases, the governing board or arranging authority should explain to the parent and the pupil why they have taken this decision.

Running the meeting

If a meeting is held via remote access, the chair must make every effort to check the participants understand the proceedings and can engage with them. This is to ensure the meeting is conducted fairly.

If, once the meeting starts, the meeting cannot proceed fairly, for example because a participant cannot access the meeting, the governing board or IRP should adjourn the meeting.

The use of remote access does not alter other procedural requirements that may apply to governing boards, arranging authorities or IRPs. For example:

- if a parent requests the appointment of a special educational needs (SEN) expert to advise a review panel, the arranging authority must appoint one and cover the cost as normal
- parents may be joined by a friend or representative, as normal

Though governing boards and IRPs must consider written representations if they are made, the law does not allow for solely paper-based 'meetings', conducted in writing.

As long as the conditions for a remote access meeting are met, it is possible for some participants to be present in person and for others to join the meeting via remote access. All the participants must have access to technology which will allow them to hear and be heard by others throughout (and to see and be seen throughout, if a live video link is used).

To help meetings run smoothly and ensure they are accessible for participants:

- provide clear instructions about how to join the meeting virtually, and distribute the relevant papers in a timely manner ahead of the meeting
- indicate a named person who participants can contact with any questions they may have beforehand
- ensure the chair is prepared to explain the agenda at the start and to provide clear guidance on how the meeting will be run, for example:
 - how participants should indicate they wish to speak
 - how any 'chat' functions should be used
 - whether there will be any breaks in proceedings
 - how participants can access advocacy services during the meeting
- consider holding a pre-meeting with attendees to check that the available technology is suitable, and all participants understand how to access the meeting

Applications for an independent review

The deadline for applications for an independent review in relation to expulsions occurring between 25 September 2020 and 24 September 2021 will be 25 school days from the date on which notice of the governing board's decision is given in writing to parents, or directly to the pupil if they are 18 or above.

Schools must wait for the extended period of 25 school days to pass without an application having been made before deleting the name of an expelled pupil from their admissions register. This is in accordance with the Education (Pupil Registration) (England) Regulations 2006 as amended.

Meetings to consider expulsions and suspensions resulting in the pupil missing more than 15 school days in a term

If a pupil is expelled or suspended which results in them having been suspended for 16 or more school days in a term, the governing board should meet to discuss reinstatement within 15 school days.

The limit will be extended to 25 school days, or as long as reasonably necessary, if:

- the expulsion or suspension occurred between 1 June 2020 and 24 September 2020
- it has not been reasonably practicable for the governing board to meet in person within 15 school days for reasons relating to coronavirus (COVID-19)
- it has not been reasonably practicable to meet via remote access for a reason relating to the conditions for a remote access meeting

Meetings to consider suspensions resulting in the pupil missing between 6 and 15 school days in a term

If a pupil is suspended which results in them having been suspended for at least 6 school days in a term but not more than 15 school days in that term, and the parent (or pupil, if aged 18 or above) chooses to make representations about the suspension, the governing board should meet to discuss reinstatement within 50 school days.

The limit will be extended to 60 days, or as long as reasonably necessary, if:

- the suspension occurred between 1 June 2020 and 24 September 2020
- it has not been reasonably practicable for the governing board to meet in person within 50 school days for reasons relating to coronavirus (COVID-19)
- it has not been reasonably practicable to meet via remote access for a reason relating to the conditions for a remote access meeting

