



## Exclusions

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Start Date:	Date: September 22	Review Date:	Date: September 23

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## 1. Introduction and Policy Aims

Livingstone Road Primary Federation is committed to inclusion. We strive to challenge and support every pupil, nurturing individual talent. However, for some serious incidents of poor behaviour (such as verbal or physical abuse to another member of the school community, or a serious one off incident), the Headteacher may resort to excluding pupils, either for a suspension (previously known as a fixed-period exclusion) or permanently.

The purpose of this policy is to ensure that there are systematic and consistent procedures and expectations regarding the exclusion of any pupil from our school.

This policy should be read in conjunction with:

- our Teaching and Learning policy which outlines how we challenge our pupils to achieve
- our Behaviour policy that explains our use of Restorative Practice to help our pupils make the correct choices
- our Special Educational Needs and Inclusion policy which states our responsibilities and procedures in supporting any pupils who have been identified as having additional learning needs.

Our school aims to ensure that:

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

## 2. Legislation and statutory guidance

This policy is based on statutory guidance from the Department for Education: [Suspension and permanent exclusion from maintained schools, academies and pupil referral units in England, including pupil movement - guidance 2022 \(applies from 1 September 2022\)](#)

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

- Section 52 of the [Education Act 2002](#), as amended by the [Education Act 2011](#)
- [The School Discipline \(Pupil exclusions and Reviews\) \(England\) Regulations 2012](#)
- Sections 64-68 of the [School Standards and Framework Act 1998](#)

In addition, the policy is based on:

- Part 7, chapter 2 of the [Education and Inspections Act 2006](#), which looks at parental responsibility for excluded pupils
- Section 579 of the [Education Act 1996](#), which defines 'school day'
- The [Education \(Provision of Full-Time Education for Excluded Pupils\) \(England\) Regulations 2007](#), as amended by [The Education \(Provision of Full-Time Education for Excluded Pupils\) \(England\) \(Amendment\) Regulations 2014](#)

This policy complies with our funding agreement and articles of association.

Please note that schools should also consult and follow their Local Authorities' guidance on exclusions.

## 3. The decision to exclude

Only the Headteacher can exclude a pupil from school. If the Headteacher is off school-site at the time of a serious incident where exclusion may be a proportionate sanction, as good practice, an attempt should be made by the senior member of staff with delegated responsibility to speak to the Headteacher and consult before a decision to exclude is made. The decision must be lawful, rational, reasonable, fair and proportionate. A decision to permanently exclude will be taken as a last resort. The decision must have regard to duties under the Equality Act 2010.



A decision to exclude a pupil will be taken only:

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

Before deciding whether to exclude a pupil, either permanently or for a fixed period, the School Leader will:

- Consider all the relevant facts and evidence, including whether there were any mitigating contributory factors (e.g. bullying, mental health issues and take into account early intervention measures/use of multi-agency assessments.
- Allow the pupil to give their version of events
- Have due regard to the following (in accordance with the DfE guidance):
  - for groups with high exclusion rates (students with SEN, students eligible for Free School Meals, Looked After Children, students from different ethnic groups, students who have English as an Additional Language);
  - that additional support or alternative placement may be required for a student with an EHCP or a Looked After Child; and;
  - that the permanent exclusion of a student with a EHCP or a Looked After Child should, as far as reasonably possible, be avoided.

The decision to exclude will only be taken for a disciplinary reason and all exclusion decisions will be formally recorded.

The decision to exclude can be withdrawn by the Headteacher at any point prior to consideration by the governing board.

## 4. Definition

For the purposes of exclusions, the school day is defined as any day on which there is a school session. Therefore, INSET or staff training days do not count as a school day.

## 5. Roles and responsibilities

### 5.1 Actions taken following a serious incident

- Written details of the incident are collected from those involved before any decision is made. Statements will be taken from students as well as any adults that were present.
- The parent/carer is telephoned by a senior member of staff to outline the incident
- In the case of pupils with an Education Health Care Plan (EHCP), all information will be logged and discussed with the discussed with the Local Authority SEN team without delay.
- As a result of the investigation, it may be determined than an internal exclusion may be appropriate. Parents will be informed by phone call and letter to confirm arrangements for this. Students will be given school work to complete as well as time to reflect upon the behaviour and the choices that were made.

### 5.2 The Headteacher

#### Informing parents

The Headteacher will immediately provide the following information to the parents of an excluded pupil:

- The reason(s) for the exclusion (by phone to ensure parents understand why the school has taken this decision and what happens next)
- A letter will follow providing:
  - Confirmation of the details of the incident, the reasons for the exclusion and, if appropriate, how the pupil will be reintegrated back into school;



- The length of a suspension or, for a permanent exclusion, the fact that it is permanent;
- Information about parents' rights to make representations about the exclusion to the governing board and how the pupil may be involved in this;
- Where there is a legal requirement for the governing board to meet to consider the reinstatement of a pupil, and that parents have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend.

The Headteacher will also notify parents by the end of the afternoon session on the day their child is excluded that for the first 5 school days of an exclusion, or until the start date of any alternative provision where this is earlier, parents are legally required to ensure that their child is not present in a public place during school hours without a good reason. Parents may be given a fixed penalty notice or prosecuted if they fail to do this.

For the first five days of a suspension, the school will set work appropriate to the pupil's age and ability. This work should allow the child to keep up with their peers and should be marked. Work can be given through online/remote learning sites. Where a student is given a suspension of six days, the school has a duty to arrange suitable off-site full-time educational provision from and including the sixth day of suspension. The school will set work as described above for the five days following a permanent exclusion.

The Headteacher may impose a suspension which may lead to a permanent exclusion, depending on the outcome of an on-going investigation and/or further consideration of the case. If this is a possibility it will be referred to in the letter to parents notifying them of the suspension. If a permanent exclusion is subsequently imposed, this is a separate exclusion event. Therefore, if a permanent exclusion follows a five day suspension, the responsibility of the school for the first five days of the permanent exclusion would be to set work as described above and not find suitable alternative provision. However, it is acknowledged that there are benefits in arranging alternative provision to begin as soon as possible after an exclusion and this will be implemented where possible. In the case of a looked after child, the school and the local authority should work together to arrange alternative provision from the first day following the exclusion.

If alternative provision is being arranged, the following information will be included when notifying parents of an exclusion:

- The start date for any provision of full-time education that has been arranged for the pupil during the exclusion.
- The start and finish times of any such provision, including the times for morning and afternoon sessions, where relevant
- The address at which the provision will take place; and
- Any information required by the pupil to identify the person they should report to on the first day.

Where this information on alternative provision is not reasonably ascertainable by the end of the afternoon session, it may be provided in a subsequent notice, but it will be provided no later than 48 hours before the provision is due to start. The only exception to this is where alternative provision is to be provided before the sixth day of an exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent.

### **Informing the governing board, local authority and Trust**

The Headteacher will immediately notify the governing board, the local authority (LA) and Hamwic Education Trust of:

- A permanent exclusion, including when a suspension is followed by a decision to permanently exclude
- A suspension of any length
- Suspensions which would result in the pupil missing a public examination

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



If a child is looked after, the Virtual School Headteacher must also be informed of a suspension or permanent exclusion without delay. If a child has a social worker, they must also be informed of a suspension or exclusion straight away.

Exclusion notifications to the Hamwic Education Trust should be sent to Ruth Davies [ruth.davies@hamwic.org](mailto:ruth.davies@hamwic.org) and Chris Bulmer [chris.bulmer@hamwic.org](mailto:chris.bulmer@hamwic.org)

### 5.3 The governing board

Responsibilities regarding exclusions are delegated to a Governors Discipline Committee (GDC) (which should comprise a minimum of three governors). The Academy Trust has permitted the LGB (Local Governing Body) to use governors from other Trust LGBs if required to form a panel of 3 governors. In this scenario, there should be a minimum of one governor from the LGB of the school who is required to review the exclusion who sits on the panel.

The GDC has a duty to consider the reinstatement of an excluded pupil (see section 6).

### 5.4 The Local Authority

For permanent exclusions, the LA is responsible for arranging suitable full-time education to begin no later than the sixth day following the date the exclusion was issued.

## 6. Considering the reinstatement of a pupil

A Governors' Discipline Committee (GDC) will consider the reinstatement of an excluded pupil within 15 school days of receiving the notice of the exclusion if:

- The exclusion is permanent
- It is a suspension which would bring the pupil's total number of school days of exclusion to more than 15 in a term
- It would result in a pupil missing a public examination

If requested to do so by parents, the GDC will consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion if the pupil would be excluded from school for more than 5 school days, but less than 15, in a single term.

Where an exclusion would result in a pupil missing a public examination, the GDC will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the GDC will consider the exclusion instead and decide whether or not to reinstate the pupil.

In advance of the meeting, the Headteacher will prepare a school evidence pack as documentary evidence for the decision to exclude. This will also be sent to the Team Manager for Inclusion Services at the relevant LA who may submit a written and/or verbal report to the committee offering advice and guidance based on the evidence provided.

The school evidence pack that is sent to all parties in advance of the GDC meeting will include:

- A profile sheet including basic information about the student
- An overview of the case including a detailed account and evidence of the reason(s) for the exclusion
- Confirmation that the current DfE exclusion guidance has been adhered to
- Where relevant, details of any behaviour modification strategies and supportive interventions (including the consideration of a managed move) which have been used
- An indication of how the sanction applied is consistent with the School's Relationship/Behaviour Policy
- Alternative sanctions that were considered (if applicable)
- In the case of a student with SEN, or a looked-after or disabled student, that the relevant DfE guidance was considered before the decision to exclude was taken
- That in reaching the decision, equal opportunity legislation was complied with.





The GDC can either:

- Uphold the decision to exclude the pupil, or
- Direct reinstatement of the pupil immediately, or on a particular date

In reaching a decision, the GDC will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the Headteacher followed their legal duties. They will decide whether or not a fact is true 'on the balance of probabilities', which differs from the criminal standard of 'beyond reasonable doubt', as well as any evidence that was presented in relation to the decision to exclude.

Minutes will be taken of the meeting by a fully trained clerk, and a record of evidence considered kept. The outcome will also be recorded on the pupil's educational record.

The GDC will notify, in writing, the Headteacher, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the GDC decision will also include the following:

- The fact it is permanent
- If the decision has been upheld, notice of parents' right to ask for the decision to be reviewed by an independent review panel, and:
  - The date by which an application for an independent review must be made
  - The name and address to whom an application for a review should be submitted
  - That any application should set out the grounds on which it is being made and that, where appropriate, reference to how the pupil's SEN are considered to be relevant to the exclusion
  - That, regardless of whether the excluded pupil has recognized SEN, parents have a right to request an SEN expert attend the review
  - Details of the role of the SEN expert and that there would be no cost to parents for this appointment
  - That parents must make clear if they wish for an SEN expert to be appointed in any application for a review
  - That parents may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents may also bring a friend to the review
- That if parents believe that the exclusion has occurred as a result of discrimination, they may make a claim under the Equality Act 2020 to the first-tier tribunal (special educational needs and disability), in the case of disability discrimination, or the county court, in the case of other forms of discrimination. A claim of discrimination made under these routes should be lodged within 6 months of the date on which the discrimination is alleged to have taken place.

## 7. An Independent Review Panel

If parents apply for an independent review, the Hamwic Education Trust will arrange for an independent panel to review the decision of the governing board not to reinstate a permanently excluded pupil. This will be accessed via the relevant Local Authority.

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

A panel of 3 or 5 members will be constituted with representatives from each of the categories below:

- A lay member to chair the panel who has not worked in any school in a paid capacity, disregarding any experience as a school governor or volunteer;
- School governors who have served as a governor for at least 12 consecutive months in the last 5 years, provided they have not been teachers or School Leaders during this time
- Headteachers or individuals who have been a Headteacher within the last 5 years



Where a 5-member panel is constituted, 2 members will come from the school governor category and 2 members will come from the School Leader category. A person may not serve as a member of a review panel if they:

- Are a member/Director of the Hamwic Education Trust or governing board of the excluding school
- Are the Headteacher of the excluding school, or have held this position in the last 5 years
- Are an employee of the Hamwic Education Trust, or the governing board, of the excluding school (unless they are employed as a Headteacher at another school)
- Have, or at any time have had, any connection with the Hamwic Education Trust, school, governing board, parents or pupils, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality
- Have not had the required legal IRP training within the last 2 years.

A trained Clerk will be appointed to the panel.

The independent review panel will decide one of the following:

- Uphold the governing board's decision
- Recommend that the governing board reconsiders reinstatement
- Quash the governing board's decision and direct that they reconsider reinstatement (only when the decision is judged to be flawed)

The panel's decision can be decided by a majority vote. In the case of a tied decision, the chair has the casting vote.

An independent review panel does not have the power to direct a governing board to reinstate an excluded pupil. However, where a panel decides that a governing board's decision is flawed when considered in light of the principles of judicial review, it can direct a governing board to reconsider its decision.

The panel will then be expected to order that the school must make an additional payment of £4,000 if it does not offer to reinstate the pupil.

Whether or not a school recognises a pupil as having Special Educational Needs (SEN), all parents have the right to request the presence of a SEN expert at a review meeting. The SEN expert's role is to advise the review panel, orally, in writing or both, impartially, of the relevance of SEN in the context and circumstances of the review. For example, they may advise whether the school acted reasonably in relation to its legal duties when excluding the pupil.

The Independent Review Panel's decision is final and binding on all parties. There is no further right of appeal against the decision of an Independent Review Panel. A parent/guardian may seek a Judicial Review of an Independent Review Panel's decision an application to do this should be made within three months of the panel's decision.

If the parent/guardian believes that there has been maladministration in the conduct of the review hearing this should be raised with the Education and Skills Funding Agency.

## 8. School registers

A pupil's name will be removed from the school admissions register if:

- 15 school days have passed since the parents were notified of the exclusion panel's decision to not reinstate the pupil and no application has been made for an independent review panel, or
- The parents have stated in writing that they will not be applying for an independent review panel

Where an application for an independent review has been made, the governing board will wait until that review has concluded before removing a pupil's name from the register.

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

Where excluded pupils are not attending alternative provision, code E (absent) will be used.





## 9. Returning from a suspension

Following a suspension, a re-integration meeting will be held involving the pupil, parents, a member of senior staff and other staff, where appropriate. If the school wishes, the Education Access Officer or another member of the Managed Service team will be available to also attend the re-integration meeting. The purpose of this meeting is to ensure the child knows they are a valued member of the school and to positively consider they they can be helped to modify their behaviour going forward.

The following measures may be implemented when a pupil returns from a suspension:

*The points below are suggestions only and should be adapted to your school's specific circumstances.*

- *Agreeing a behaviour contract*
- *Reviewing and agreeing revised support interventions*
- *Putting a pupil 'on report'*
- *Regular pastoral meetings or mentor*

All pupils have the right to a full time education. Any part time timetable used to support integration must only be put in place in exceptional circumstances and follow the process below

- Agreement from the Trust Inclusion Officer
- Agreement from parents
- Agreement from the local authority where a child has an EHCP
- Time-limited to return to full time education within six weeks
- A clear plan agreed on the 1<sup>st</sup> day following the exclusion showing how the time in school will increase
- At least fortnightly meetings to review progress against the reintegration plan with child, parents and other appropriate agencies

## 10. Monitoring arrangements

The Education Access Officer monitors the number of exclusions every term and reports back to the Headteacher and the Hamwic Education Trust Board of Directors. They also liaise with the local authority to ensure suitable full-time education for excluded pupils.

This policy is reviewed by the Hamwic Education Trust annually to ensure compliance with current statutory guidance. At every review, the policy will be shared with the schools within the Hamwic Education Trust.

## 11. Links with other policies

This exclusion policy is linked to our;

- Behaviour policy
- SEN policy and information report

*List any other related policies that your school has here, if applicable.*

