



# Exclusions Policy 2023-24

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## Statutory Policy

### **1. Aims**

SHINE Academies is committed to following all statutory exclusions procedures to ensure that every child receives an education in a safe and caring environment.

Our Trust 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)
- All suspensions and exclusions are carried out lawfully

### **2. Legislation and statutory guidance**

This policy is based on statutory guidance from the Department for Education: [Exclusion from maintained schools, academies and pupil referral units \(PRUs\) in England](#)

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

- Section 51a 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.

This policy refers to suspension (known in legislation as fixed period exclusion) and permanent exclusions as set out in the exclusions guidance July 2022.

The DfE has provided some additional guidance for parents concerning school behaviour and the exclusion process, which can be found here:

[A guide for parents on school behaviour and exclusion](#)

### **3. Definition**

Suspension – when a pupil is removed from the school for a fixed period. This was previously referred to as a 'fixed-term exclusion'.

Permanent exclusion – when a pupil is removed from the school permanently and taken off the school roll. This is sometimes referred to as an ‘exclusion’.

Off-site direction – when a governing board of a maintained school requires a pupil to attend another education setting temporarily, to improve their behaviour.

Parent – any person who has parental responsibility and any person who has care of the child.

Managed move – when a pupil is transferred to another school permanently. All parties, including parents and the admission authority for the new school, should consent before a managed move occurs.

#### **4. Pupils at risk of suspension or exclusion**

The headteacher is responsible for informing relevant parties when a pupil is at risk of suspension or exclusion:

- Parents should be made aware as early as possible when their child is at risk of suspension or exclusion, and a meeting arranged with the headteacher to discuss any support that can be put in place.
- Where a pupil has a social worker, e.g., because they are the subject of a Child in Need Plan or a Child Protection Plan, and they are at risk of suspension or permanent exclusion, the headteacher should inform their social worker, the Designated Safeguarding Lead (DSL) and the pupil’s parents to involve them all as early as possible in relevant conversations.
- Where a looked-after child (LAC) is likely to be subject to a suspension or permanent exclusion, the Designated Teacher (DT) should contact the local authority’s VSH as soon as possible.

A pre-suspension/exclusion meeting should be convened with parents and external agencies invited as applicable.

#### **5. The decision to suspend or permanently exclude**

Only the Head Teacher, can exclude a pupil from school. The decision can be made in respect of behaviour inside or outside of school. A permanent exclusion will be taken as a last resort.

SHINE Academies is aware that off-rolling is unlawful. Ofsted defines off-rolling as:

“...the practice of removing a pupil from the school roll without a formal, permanent exclusion or by encouraging a parent to remove their child from the school roll, when the removal is primarily in the interests of the school rather than in the best interests of the pupil.”

We are committed to following all statutory exclusions procedures to ensure that every child receives an education in a safe and caring environment.

Before deciding whether to suspend or exclude a pupil, the Head Teacher will:

- Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked. When establishing the facts in relation to a suspension or permanent exclusion decision the headteacher must apply the civil standard of proof, i.e., ‘on the balance of probabilities’ it is more likely than not that a fact is true, rather than the criminal standard of ‘beyond reasonable doubt.’
- Allow the pupil to give their version of events
- Consider if the pupil has special educational needs (SEN)

- Consider whether the pupil is especially vulnerable (e.g. the pupil has a social worker, or is a looked-after child (LAC))
- Consider whether all alternative solutions have been explored, such as off-site direction or managed moves
- The headteacher will consider the views of the pupil, in light of their age and understanding, before deciding to suspend or exclude, unless it would not be appropriate to do so.
- Pupils who need support to express their views will be allowed to have their views expressed through an advocate, such as a parent or social worker.
- The headteacher will not reach their decision until they have heard from the pupil, and will inform the pupil of how their views were taken into account when making the decision.

## 6. Definition of suspension

A suspension, where a pupil is temporarily removed from the school, is an essential behaviour management tool that should be set out within a school's behaviour policy.

A pupil may be suspended for one or more fixed periods (up to a maximum of 45 school days in a single academic year). A suspension does not have to be for a continuous period.

A suspension may be used to provide a clear signal of what is unacceptable behaviour as part of the school's behaviour policy and show a pupil that their current behaviour is putting them at risk of permanent exclusion

A suspension can also be for parts of the school day. For example, if a pupil's behaviour at lunchtime is disruptive, they may be suspended from the school premises for the duration of the lunchtime period. The legal requirements relating to the suspension, such as the headteacher's duty to notify parents, apply in all cases. Lunchtime suspensions are counted as half a school day in determining whether a governing board meeting is triggered

The law **does not allow** for extending a suspension or 'converting' a suspension into a permanent exclusion. In exceptional cases, usually where further evidence has come to light, a further suspension may be issued to begin immediately after the first period ends; or a permanent exclusion may be issued to begin immediately after the end of the suspension.

## 7. Definition of permanent exclusion

A permanent exclusion is when a pupil is no longer allowed to attend a school (unless the pupil is reinstated).

The decision to exclude a pupil permanently should only be taken:

- in response to a serious breach or persistent breaches of the school's behaviour policy; and
- where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others such as staff or pupils in the school.

## 8. Roles and responsibilities

### 8.1 Informing parents

Whenever a headteacher suspends or permanently excludes a pupil they must, without delay, notify parents by telephone of the period of the suspension or permanent exclusion and the reason(s) for it.

The Head Teacher will then, without delay, provide the following information, in writing, to the parents of an excluded pupil:

- The reason(s) for the exclusion
- The length of a suspension or, for a permanent exclusion, the fact that it is permanent
- Information about parents' right 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 Head Teacher 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.

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
- 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
- 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.

Parents should be provided with the following as part of written communication:

- Coram's Child Law Advice service can be accessed through their website <https://childlawadvice.org.uk/information-pages/school-exclusion/> or contacted on 0300 330 5485 from Monday to Friday, 8am – 6pm.
- ACE education run a limited service and can be reached on 0300 0115 142 on Monday to Wednesday from 10am to 1pm during term time. Information can be found on the website: <http://www.ace-ed.org.uk/>
- Independent Provider of Special Education Advice (known as IPSEA – [www.ipsea.org.uk](http://www.ipsea.org.uk)) is a registered charity. It offers free and independent information, advice and support to help get the right education for children and young people with all kinds of special educational needs (SEN) and disabilities.
- SEN Information Advice & Support Services Network (formerly known as the local parent partnership)

## **8.2 Informing Social Workers and/ or VSH**

If a pupil has a social worker, or if a pupil is looked-after, the headteacher must now, without delay, notify the social worker and/or VSH, as applicable, with the following information:

- They have decided to suspend or permanently exclude the pupil

- The reason(s) for the decision
- The length of the suspension or, for a permanent exclusion, the fact that it is permanent
- The suspension or permanent exclusion affects the pupil's ability to sit a National Curriculum test or public exam (where relevant)

The social worker / VSH will be invited to any meeting of the governing board about the suspension or permanent exclusion. This is so they can provide advice on how the pupil's background and/or circumstances may have influenced the circumstances of their suspension or permanent exclusion. The social worker should also help ensure safeguarding needs and risks and the pupil's welfare are taken into account.

### **8.3 Informing the governing board**

The Head Teacher will immediately notify the governing board, without delay, of:

- A permanent exclusion, including when a fixed-period exclusion is made permanent
- Exclusions which would result in the pupil being excluded for more than 5 school days (or more than 10 lunchtimes) in a term
- Exclusions which would result in the pupil missing a public examination

### **8.4 Informing the Local Authority**

The headteacher will notify the LA of all suspensions and permanent exclusions without delay, regardless of the length of a suspension.

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

For all other exclusions, the Head Teacher will notify the governing board, Trust Board and LA once a term and SELT immediately.

## **9. Suspension of a pupil**

- Headteachers should take steps to ensure that work is set and marked for pupils during the first five school days of a suspension.
- If the pupil has a special educational need or disability, the headteacher will make sure that reasonable adjustments are made to the provision where necessary.
- If a pupil is 18 years of age or above, they should be involved in the process, not their parents or carers.

## **10. 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.

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

- Agreeing a behaviour contract
- Reintegration strategy put into place
- Internal isolation

The strategy will be regularly reviewed and adapted where necessary throughout the reintegration process in collaboration with the pupil, parents, and other relevant parties.

## **11. Exclusion of a pupil**

For any permanent exclusion, headteachers should take reasonable steps to ensure that work is set and marked for pupils during the first five school days where the pupil will not be attending alternative provision.

Any appropriate referrals to support services or notifying key workers (such as a pupil's social worker) should also be considered.

The potential significance of SEND law should also be considered.

If a pupil is 18 years of age or above, they should be involved in the process, not their parents or carers.

***All schools must have regard to Keeping Children Safe in Education***

## **12. Cancelling a suspension or exclusion**

The headteacher may cancel a suspension or permanent exclusion that has already begun, but this will only be done where it has not yet been reviewed by the governing board. Where there is a cancellation:

- The parents, governing board and LA will be notified without delay and a reason for the cancellation given.
- Where relevant, any social worker and VSH will notified without delay and a reason for the cancellation given
- Parents will be offered the opportunity to meet with the headteacher to discuss the cancellation
- As referred to above, the headteacher will report to the governing board once per term on the number of cancellations
- The pupil will be allowed back in school
- Any days spent out of school as a result of any exclusion, prior to the cancellation will count towards the maximum of 45 school days permitted in any school year.
- A permanent exclusion cannot be cancelled if the pupil has already been excluded for more than 45 school days in a school year or if they will have been so by the time the cancellation takes effect.

If the pupil is looked after or if they have a social worker, the school will work with the LA to arrange AP from the first day following the suspension or permanent exclusion. Where this isn't possible, the school will take reasonable steps to set and mark work for the pupil, including the use of online pathways.

## **13. Implementing processes for suspensions & exclusions**

The headteacher will ensure:

- A reliable process for monitoring the 45 days rule is in place (including when pupils have moved from other schools)
- A formal process for informing parents, LA, Governing Body/ Trustees, Executive Team, Social Workers and VSH is in place
- EHAs and family support is offered to the family
- Reintegration meetings are held and plans put in place
- Alternative arrangements are made for suspensions/ exclusions over 5 days

### **13.1. The governing board**

Responsibilities regarding exclusions are delegated to the Exclusion Panel

The Exclusion Panel has a duty to consider parents' representation about a suspension or exclusion. The Exclusion Panel also has a duty to consider the reinstatement of a suspended or excluded pupil in certain circumstances (see section 14 and 15).

Within 14 days of receipt of a request, the governing board will provide the secretary of state with information about any exclusions in the last 12 months.

For any suspension of more than 5 school days, the governing board will arrange suitable full-time education for the pupil. This provision will begin no later than the sixth day of the exclusion.

### **13.2 Remote access to governing board meetings and independent review panels (IRPs)**

Face-to-face meetings remain the default, but you can hold meetings remotely:

- At the request of parents/carers, or the pupil (if they're aged 18 or above); **or**
- In the case of extraordinary, or unforeseen circumstances

Parents/carers and pupils who are 18 or above, must be informed by the headteacher of their right to request a remote meeting.

### **13.3 The Local Authority**

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

### **13.4 Trustees**

Trustees will monitor all exclusions and arrange for the auditing of processes as needed.

## **14. Considering the reinstatement of a pupil**

The Exclusion Panel 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 fixed-term exclusion which would bring the pupil's total number of school days of exclusion to more than 15 (including 15.5 days) in a term
- It would result in a pupil missing a public examination

If requested to do so by parents, the Exclusion Panel 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 Exclusion Panel will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the the Exclusion Panel will consider the exclusion and decide whether or not to reinstate the pupil.



The following parties will be invited to a meeting of the Exclusion Panel and allowed to make representations or share information:

- Parents, or the pupil if they are 18 or over (and, where requested, a representative or friend)
- The pupil, if they are aged 17 or younger and it would be appropriate to their age and understanding (and, where requested, a representative or friend)
- The headteacher
- The pupil's social worker, if they have one
- The VSH, if the pupil is looked after

The Exclusion Panel will try to arrange the meeting within the statutory time limits set out above and must try to have it at a time that suits all relevant parties. However, its decision will not be invalid simply on the grounds that it was not made within these time limits.

The Exclusion Panel can either:

- Decline to reinstate the pupil, or
- Direct the reinstatement of the pupil immediately, or on a particular date

In reaching a decision, the Exclusion Panel will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the Head Teacher 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, and a record of evidence considered kept. The outcome will also be recorded on the pupil's educational record.

The Exclusion Panel will notify, in writing, the Head Teacher, parents and the LA and any other relevant stakeholders of its decision, along with reasons for its decision, without delay.

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

- The fact that it is permanent
- 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 recognised SEN, parents have a right to require SHINE Academies to appoint an SEN expert to 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 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. 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

## **15. An independent review**

If parents apply for an independent review, SHINE Academies will arrange for an independent panel to review the decision of the governing board not to reinstate a permanently excluded pupil.

Applications for an independent review must be made within 15 school days of notice being given to the parents by the Exclusion Panel 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. Where a 5-member panel is constituted, 2 members will come from the school governors category and 2 members will come from the Head Teacher category.

- 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 Head Teachers during this time
- Head Teachers or individuals who have been a Head Teacher within the last 5 years

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

- Are a Trustee of SHINE Academies, or governing board of the excluding school
- Are the Head Teacher of the excluding school, or have held this position in the last 5 years
- Are an employee of SHINE Academies, or the governing board, of the excluding school
- Have, or at any time have had, any connection with SHINE Academies, school, governing board, parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality
- Have not had the required training within the last 2 years (see appendix 1 for what training must cover)

A clerk will be appointed to the panel.

The independent 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.

Once the panel has reached its decision, the panel will notify all parties in writing without delay.

This notification will include:

- The panel's decision and the reasons for it
- Where relevant, details of any financial readjustment or payment to be made if the governing board does not subsequently decide to offer to reinstate the pupil within 10 school days

- Any information that the panel has directed the governing board to place on the pupil's educational record

## **16. 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.

## **17. Monitoring arrangements**

Head Teacher monitors the number of exclusions every term and reports back to the Trustees, governors and Trust Executive Leadership Team. They also liaise with the local authority to ensure suitable full-time education for excluded pupils.

All suspensions and exclusions should be recorded on the school MIS system as well as CPOMS. Up to 3 reasons can be recorded for the suspension/ exclusion and these will be collected as part of the census information.

This policy will be reviewed annually. At every review, the policy will be shared with the Trust Board.

## **18. Links with other policies**

This Suspensions and Permanent Exclusions policy is linked to our

- Behaviour policy
- SEN policy and information report
- Safeguarding Policy

## **19. Appendix 1: Independent review panel training**

SHINE Academies must ensure that all members of an independent review panel and clerks have received training within the 2 years prior to the date of the review.

Training must have covered:

- The requirements of the primary legislation, regulations and statutory guidance governing exclusions, which would include an understanding of how the principles applicable in an application for judicial review relate to the panel's decision making
- The need for the panel to observe procedural fairness and the rules of natural justice

- The role of the chair and the clerk of a review panel
- The duties of Head Teachers, governing boards and the panel under the Equality Act 2010
- The effect of section 6 of the Human Rights Act 1998 (acts of public authorities unlawful if not compatible with certain human rights) and the need to act in a manner compatible with human rights protected by that Act