



Shireland Collegiate Academy Trust Policy

# Exclusion Policy

(Secondary)

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## 1. Aims

This policy aims to ensure that:

- The exclusions process is applied fairly and consistently in order to support the embedding of positive behaviours within our student body.
- The exclusions process is understood by members of the Standards and Performance Committee (SPC), Disciplinary Committee, staff, parents/carers and students with all stakeholders having an awareness of the potential consequences of an exclusion.
- Pupils do not become NEET (not in education, employment or training) following exclusion.

At Shireland Collegiate Academy Trust, we employ a range of interventions to attempt to avoid fixed term/permanent exclusions as set out in our behaviour policy. However, we recognise that in certain instances exclusion is the appropriate, proportionate action to be taken in order for us to maintain our extremely high expectations of our students and to safeguard and support them effectively.

We are acutely aware of the damage that exclusions can cause to individual students, their families and indeed society as a whole; consequently, we are committed to working with our students, families and external agencies to proactively address behaviours that if unchecked, may lead to exclusion. Students and families should be mindful of the guidance detailed here and within our behaviour policy to ensure they are fully aware of our expectations and how to meet them.

Queries relating to this guidance and/or that within the behaviour policy should be addressed to the Assistant Principal for behaviour in the first instance.

## 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 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.

### 3. The decision to exclude

Only the Principal, or acting Principal<sup>1</sup>, can exclude a pupil from school. The decision to enforce a permanent exclusion will be taken as a last resort.

Our school 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.

A decision to exclude a pupil will only be taken if the following has occurred:

- In response to significant or persistent challenges of the school's academy code of conduct as detailed within our behaviour policy.

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<sup>1</sup> In the Principal's absence he will delegate the ability to exclude to a designated Vice-Principal – they retain the same statutory powers and can issue fixed term/permanent exclusions in the same manner. The term 'Principal' refers to the Shireland Collegiate Academy Principal or designated Vice-Principal serving as 'Acting Principal' for the remainder of this document

- 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 Principal will:

- Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked
- Allow the pupil to give their version of events
- Consider if the pupil is looked-after or previously looked after and whether an alternative to exclusion is appropriate
- Consider if the pupil has special educational needs and disabilities (SEND) and whether an alternative to exclusion is appropriate after allowing for reasonable adjustments for SEND status

All of the above would be carried out by the BMS (Behaviour Management Services) team in line with the school's behaviour policy; evidence/recommendations would then be presented to the Principal for a decision to be made on any prospective exclusion.

## 4. Definition

For the purposes of exclusions, 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 The Principal

#### Informing parents

The Principal will immediately provide the following information, in writing, to the parents of an excluded pupil:

- The reason(s) for the exclusion.
- The length of a fixed-term exclusion or, for a permanent exclusion, the fact that it is permanent.

- Information about parents' right to make representations about the exclusion to the Disciplinary Committee and how the pupil may be involved in this.
- Where there is a legal requirement for the Disciplinary Committee 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.

## 5.2 The Assistant Principal for behaviour

The Assistant Principal for behaviour<sup>2</sup> will also notify parents of the exclusion via telephone at the earliest possible opportunity and at the latest, by the end of the afternoon session on the day their child is excluded. Parents will be notified 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. 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.

The Assistant Principal for behaviour will also be in touch with families in the event of a fixed term exclusion to arrange the students' re-integration meeting. This will take

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<sup>2</sup> In the Assistant Principal for behaviour's absence another member of the senior leadership will make contact with families in the same manner

place as soon as possible following the start of a fixed term exclusion and no later than 48 hours before the end of a fixed term exclusion.

### **Informing the Disciplinary Committee and Local Authority**

The Principal will immediately notify the Disciplinary Committee and the Local Authority (LA) 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.

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

For all other exclusions, the Principal will notify the Disciplinary Committee and LA once a term.

### **5.3 The Disciplinary Committee**

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

Within 14 days of receipt of a request, the Disciplinary Committee will provide the secretary of state and the LA with information about any exclusions in the last 12 months.

For a fixed-period exclusion of more than 5 school days, the Disciplinary Committee will arrange suitable full-time education for the pupil. This provision will begin no later than the sixth day of the exclusion.

Provision does not have to be arranged for pupils in the final year of compulsory education who do not have any further public examinations to sit.

## 5.4 The LA

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

## 6. Considering the reinstatement of a pupil

The Shireland Collegiate Academy Trust's Disciplinary Committee 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 in a term.
- It would result in a pupil missing a public examination.

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

The Disciplinary Committee 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 Disciplinary Committee will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the Principal 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 Disciplinary Committee will notify, in writing, the Principal, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the Disciplinary Committee's 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 (Shireland Collegiate Academy Trust's Appeals Committee), 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 SEND are considered to be relevant to the exclusion.
  - That, regardless of whether the excluded pupil has recognised SEND, parents have a right to require to appoint a SEND expert to attend the review.
  - Details of the role of the SEND expert and that there would be no cost to parents for this appointment.
  - That parents must make clear if they wish for a SEND 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.

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.

## **7. An independent review**

If parents apply for an independent review, Shireland Collegiate Academy Trust's Appeals Committee will conduct an independent review the final decision made by the Disciplinary Committee.

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

The membership of the Appeals Committee will be constituted as needed but must comply with the requirements of a committee to be quorate. Therefore, minimum membership must be 3 independent Trustees or Governors who have not previously been involved in the issue under consideration. At least one of these members will not be involved in the management or running of the school.

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

- Are a member of the Shireland Collegiate Academy Trust Board or SPC of the excluding school.
- Are the Principal of the excluding school or have held this position in the last 5 years.
- Are an employee of Shireland Collegiate Academy Trust or the SPC of the excluding school (unless they are employed as a Principal at another school).
- Have, or at any time have had, any connection with the school, SPC, 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 Disciplinary Committee's decision.
- Recommend that the Disciplinary Committee reconsiders reinstatement.
- Quash the Disciplinary Committee'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.

## 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 Disciplinary Committee 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 fixed-term exclusion

Following a fixed-term exclusion, a re-integration meeting will be held involving the pupil, parents, a member of senior staff and other staff, where appropriate.

The following measure will be implemented when a pupil returns from a fixed-term exclusion:

- A DBRM (Disciplinary Behaviour Review meeting) will occur chaired by a member of the Senior Leadership Team. The DBRM report will include a full behaviour log for the academic year, records of attendance and punctuality, a detailed report on the incident leading to exclusion and the recommendations presented to the Principal in relation to the future of this student at the academy by the Assistant Principal for behaviour. During the meeting targets will be set relating to the students' future conduct and where appropriate, support measures will be agreed to attempt to support the student in avoiding further exclusions.

A range of further measures may be implemented when a pupil returns or is due to return from a fixed-term exclusion<sup>3</sup>:

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<sup>3</sup> This list is not exhaustive – interventions vary on a case by case basis and full details of any proposed interventions are always shared with students/families within DBRM/EPP paperwork and meetings

- In certain instances, the Principal may deem it inappropriate for a student to be reintegrated into the academy due to the nature of their exclusion. In such instances a managed transfer, preventative placement or alternative provision would be arranged for the student by the Assistant Principal for behaviour if family consent to this is gained.
- In exceptional circumstances, a student returning from a fixed term exclusion may be subject to a BMS Exclusion Prevention Programme (EPP). This entails a 15/30-day period internal exclusion within the Seclusion Area during which the excluded pupil continues with their studies and completes various reflective tasks relating to the incident leading to exclusion, their general conduct and aspirations for the future. The EPP programme ends when parents attend a second meeting with Senior Leadership, at which the students' progress during the EPP programme is reviewed and a DBRM meeting to set targets for reintegration takes place.
- An alternate timetable may be implemented where it is unlikely a student will be able to effectively reintegrate into the wider academy due to the reason(s) for exclusion. This will be set out as detailed in our behaviour policy.
- The student may be subject to Targeted Behaviour Management Intervention (TBMI) by a Pastoral Manager or the Assistant Principal for behaviour.
- A phased reintegration into the academy may be arranged; this would involve the student spending unstructured times (Break/Lunch) and certain subjects within the BMS (Behaviour Management Services) for a set period of time.
- Where appropriate, external agency involvement will be sought.

## 10. Monitoring arrangements

The Assistant Principal for behaviour monitors the number of exclusions every term and reports back to the Principal. They also liaise with the LA to ensure suitable full-time education for excluded pupils.

This policy will be reviewed annually by the Principal. At every review, the policy will be shared with the SPC.

## 11. Links with other policies

This exclusions policy is linked to our:

- Behaviour policy

- Anti-bullying policy
- SEN policy and information report

## Appendix 1: Independent review panel training

The Shireland Collegiate Academy Trust's Board must ensure that all members of Disciplinary Committee 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 Principals, Disciplinary Committee and the Appeals Committee 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.

## Appendix 2: Changes to the school exclusions process during the coronavirus outbreak

This statutory guidance describes the temporary changes we have made to the school exclusion process due to coronavirus (COVID-19).

The changes apply to exclusions from:

- maintained schools
- academies (including alternative provision academies but excluding 16 to 19 academies)
- pupil referral units (PRUs)

The normal arrangements and procedures that must follow a decision to exclude on disciplinary grounds are described in the 2017 statutory guidance on [exclusion from maintained schools, academies and pupil referral units in England](#). They are unchanged except as noted in this guidance.

All exclusions occurring whilst COVID-19 restrictions are in place are subject to amended arrangements with regards to:

- the use of remote access technology (for example videoconferencing or telephone conferencing software) for meetings of the Disciplinary Committee or Appeals Committee.

The Disciplinary Committee or Appeals Committee should facilitate remote access meetings where it is not reasonably practicable to meet in person.

If the deadlines are missed because of 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 exclusion should be taken as having 'occurred' on the first day of the exclusion.

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

## Remote meetings

For exclusions occurring whilst COVID-19 restrictions are in place, meetings of the Disciplinary Committee or Appeals Committee 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 COVID-19
- the Disciplinary Committee or Appeals Committee 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

It is the responsibility of the Disciplinary Committee or the Appeals Committee to make sure 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 Disciplinary Committee or Appeals Committee 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 [guidance for full opening of schools](#))

## Arranging a remote access meeting

The Disciplinary Committee and the Appeals Committee should explain the technology they propose to use to participants and should 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 if they do not want to.

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.

The Disciplinary Committee and Appeals Committee must comply with relevant equalities legislation and recognise that some participants may find it difficult to participate in a remote access meeting (for example, if someone has a disability or if English is not their first language).

The Disciplinary Committee and Appeals Committee 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 Disciplinary Committee or Appeals Committee should facilitate this to ensure the meeting can be held promptly.

### **Fairness and transparency**

The assessment of whether a meeting can be held fairly and transparently via remote access must be made with reference to the facts of each case and cannot be decided by rigidly following a general policy.

If the Disciplinary Committee or Appeals Committee is not satisfied that a meeting can be held fairly and transparently via remote access, they should consider what reasonable adjustments could be made to surmount this, consulting with parents and pupils to take account of their wishes.

It will only be in rare cases that the Disciplinary Committee or Appeals Committee conclude that a remote meeting would not be fair and transparent if the participants have understood the implications of a remote access meeting and have given their consent. In such cases, the Disciplinary Committee or Appeals Committee should explain to the parent and the pupil why this decision has been taken.

### **Running the meeting**

If a meeting is held via remote access, every effort should be made by the chair to check the participants understand the proceedings and can engage with them, 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 Disciplinary Committee or Appeals Committee should adjourn the meeting.

The use of remote access does not alter other procedural requirements that may apply to the Disciplinary Committee or Appeals Committee. For example, if a parent requests the appointment of a special educational needs and disabilities (SEND) 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 the Disciplinary Committee and Appeals Committee 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 to participants 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 of the meeting, 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.

**Meetings to consider permanent exclusions, and fixed period exclusions resulting in the pupil missing more than 15 school days in a term**

If a pupil is permanently excluded or is excluded for a fixed period which results in them having been excluded for 16 or more school days in a term, then the Disciplinary Committee should meet to discuss reinstatement within 15 school days.

**Meetings to consider fixed period exclusions resulting in the pupil missing between 6 and 15 school days in a term**

If a pupil is excluded for a fixed period which results in them having been excluded 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 exclusion, then the Disciplinary Committee should meet to discuss reinstatement within 50 school days.