

# Exclusion Policy

Learning for Life

Reviewed by: Governors

Date of Policy: September 2021

To be reviewed: September 2022

## **1. INTRODUCTION**

1.1. Cockburn John Charles Academy believes that all students and staff have the right to enjoy a safe and positive learning environment where students are encouraged to be self-disciplined and have due regard for authority and each other.

1.2. The 'Positive Discipline' framework is the Academy's approach to encouraging good behaviour and recognises that exclusion will be used as a sanction only in very serious matters.

1.3. Exclusion can have the potential to have a significant impact on a student's life chances and choices and therefore the Academy will ensure that the decision to exclude will only be made after all the relevant factors have been taken into account.

1.4. Exclusion may be considered:

- following a single significant incident
- following a series of lesser incidents, whether related or not, which demonstrate a pattern of behaviour contrary to the standards and expectations of the Academy
- where allowing the student to remain at the Academy would seriously harm the education or welfare of others within the Academy.

1.5. Attention will be given to the statutory duties when administering the Exclusion Policy to students with Special Educational Needs or Disability (SEND)

## **2. AIMS**

2.1. To create an environment where students feel safe and can develop academically, morally and socially

2.2. To establish strong, appropriate home- academy relationships through regular communications with our pastoral support team and other appropriate initiatives

2.3. To provide clear guidelines in terms of what constitutes acceptable behaviour and how unacceptable behaviour will be managed.

2.4. To ensure compliance with statutory guidelines, with particular reference to:

- the Education Act 2002, as amended by the Education Act 2011
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- The Education and Inspections Act 2006
- The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007.

## **3. RELATED POLICIES**

- Positive Discipline/Behaviour Policy
- Child Protection
- Equality
- Health and Safety.

## **4. DECISION TO EXCLUDE**

4.1. The control of fixed-term or permanent exclusion is entirely in the hands of the Executive Headteacher, Head of School and Governing Body.

4.2. Depending on the circumstances which have led to a decision to exclude a student, the range of strategies laid down in the Positive Discipline Policy will have been exhausted and this will be only used as a last resort.

4.3. The Academy reserves the right to make decisions to exclude students following unacceptable behaviour or conduct on trips/residential visits, extra-curricular events e.g. sporting fixtures, work experience placement, any extended Academy activity or travel/movement to/from and in the vicinity of the Academy.

4.4. Factors when considering the suitability of exclusion may include:

- The age and state of health of the student
- The student's previous record at the Academy
- Any mitigating factors which are unique to the student and may be taken into consideration in relation to the behaviour

- Any external pressures e.g. peer pressure which may have contributed to the behaviour
- Whether the exclusion would be a proportional sanction given the severity of the behaviour, frequency of its occurrence and potential for further occurrences in the future
- Whether or not the behaviour impaired or will impair the normal functioning of the student or other students in the Academy
- Whether or not the behaviour contravened one or more of the rules outlined in the Academy's Behaviour/Positive Discipline Policy
- Whether the behaviour was the act of a single student or the act of a group of students
- Whether additional support from external agencies may be appropriate
- Whether the exclusion would be a suitable response to a student with SEND
- Whether the student and their behaviour can be accommodated without the use of exclusion

4.5. In all circumstances the decision to exclude a student will be taken following a thorough investigation and where the Executive Headteacher/Head of School is satisfied that on the balance of probabilities, the student behaved in such a way that no other alternative sanction is available other than to exclude them.

4.6. The Academy has a duty to ensure that any exclusion is reasonable, proportionate and legal

## **5. ROLES AND RESPONSIBILITIES**

### **5.1. The Executive Headteacher or Head of School**

5.1.1. Only the Executive Headteacher or the Head of School may exclude a student.

5.1.2. They will consider all relevant factors and ensure that all other strategies have been exhausted before taking the decision to exclude a student for the shortest duration possible, taking into account the Academy's incremental approach to exclusions.

5.1.3. They will ensure that the decision to exclude is consistent with this policy.

5.1.4. The Executive Headteacher or Head of School informs the LGB of:

- Permanent exclusions
- Fixed term exclusions
- Exclusions which would result in the student missing a public examination.

5.1.5. The Executive Headteacher or Head of School will ensure arrangements are in place to provide alternative education provision from the sixth day of an exclusion.

5.1.6. If the student will miss the opportunity to sit a public examination, the Executive Headteacher or Head of School must arrange for it to be taken, possibly in an alternative provision.

5.1.7. The Executive Headteacher or Head of School will discuss an appropriate alternative education provision with the Local Authority for permanently excluded students.

5.1.8. The Executive Headteacher or Head of School will ensure the management and reintegration of students who are re-admitted following exclusion including arranging a reintegration meeting with parents/carers which must always take place before a student returns to seclusion, or is reintegrated into lessons.

5.1.9. The Executive Headteacher/Senior Leadership Team, in consultation with pastoral staff, will decide on admissions and management of students who may have been excluded from other educational establishments through Fair Access Panels.

### **5.2. The Local Governing Body**

5.2.1. The LGB do not have the right to exclude a student.

5.2.2. The use of exclusion will be reviewed at each LGB Meeting.

5.2.3. The LGB will establish a Discipline Committee and an Independent Appeals Panel where required.

### **5.3. The Discipline Committee**

5.3.1. The Discipline Committee will convene within 15 school days to review the use of permanent exclusions, for exclusions exceeding 15 school days per term, or where the student would miss the opportunity to sit a public examination.

5.3.2. Where an exclusion would result in a student missing a public examination or national curriculum test, so far as is reasonably practicable a meeting will be convened before the due date of any examination or test. If this is not practicable, the Chair of governors may consider the exclusion independently and decide whether or not to reinstate the student or to exercise their discretion to allow an excluded student on the Academy premises for the sole purpose of taking the examination or test. Where the Chair is unable to make this consideration then the Vice Chair may do so instead.

5.3.3. For fixed term exclusions of 6 - 15 days inclusive per term, where parents/carers have made representation, the Discipline Committee will convene within 50 school days to review the decision to exclude.

5.3.4. For a fixed term exclusion of 5 days or less per term the Discipline Committee will consider written representations made by parents/carers but cannot overturn the Executive Headteacher or Head of School's decision.

5.3.5. The Discipline Committee will be made up of 3 Governors who will consider the views/representations of the parents/carers of the excluded student, even if it is arranged for a date after the student returns to the Academy. A parent/carer may attend the Discipline Committee meeting and may be accompanied by a friend.

5.3.6. It will consider whether the Executive Headteacher or Head of School have exhausted all other available strategies before taking the decision to exclude and whether the exclusion was reasonable, proportionate and legal.

5.3.7. If the student has an Education Health and Care plan, the Discipline Committee will consider whether the statement should be revised as an alternative to exclusion.

5.3.8. If the student has been permanently excluded the Discipline Committee will consider whether they should be reinstated, and if so, whether the reinstatement should be immediate or by a particular date. They will refer to the student's behaviour record, the reason for the exclusion and the impact the reinstatement would have on the student and the Academy.

5.3.9. The committee cannot attach conditions to the student's reinstatement.

5.3.10. If the Discipline Committee decides not to reinstate the student it will without delay inform the parents/carers, the Executive Headteacher or Head of School and the Local Authority of the decision and the reason for it in writing. Where the student resides in a different local authority, the 'home authority' will also be informed of the decision. The parents/carers will be notified of their right to appeal to an Independent Appeals Panel (see 10.1).

## **6. FIXED TERM EXCLUSIONS**

6.1. Only in extreme circumstances of persistently disruptive behaviour or for one off misdemeanours of a very serious nature will the Executive Headteacher or Head of School consider the option of fixed term exclusion.

6.2. Such misdemeanours are likely to include:

- action contrary to The Equalities Act 2010 e.g. racism, sexism or homophobia
- bullying, including the use of new technologies
- criminal damage
- inappropriate sexualised behaviour
- refusing to complete units in the inclusion room

- rudeness and defiance to staff
- the handling of stolen goods
- the handling or use of illegal substances
- theft
- violent conduct.

6.3. After exclusion all KS3 and KS4 students will return to the Academy to spend a period of time in seclusion following a re-integration meeting with a senior member of staff

## **7. PERMANENT EXCLUSIONS**

7.1. Permanent Exclusion will be used in the rarest of circumstances and will, as a matter of policy, always be in keeping with advice from the Secretary of State for Education.

7.2. Currently it is highly likely that the Academy will process a Permanent Exclusion for:

- Unprovoked physical assault of a serious nature
- Serious alcohol or drug misuse on or within Academy premises or during directed activities
- A persistent record of significant disruptive behaviour
- Using any form of a firearm or potentially lethal weapon in or around an Academy

7.3. Any exclusions totalling 45 days or more in one academic year will be classed as a persistent record of significant disruptive behaviour and will result in a permanent exclusion.

## **8. SUPPORT FOR EXCLUDED LEARNERS**

8.1. Where students are excluded, support will be provided for them during the period in all circumstances, including meeting the needs of SEND. This may be in the form of work and homework.

8.2. Parents/carers must ensure such work is returned to the Academy in order for it to be marked.

## **9. INFORMING PARENTS/CARERS**

9.1. Following the decision to exclude:

9.1.1. The Executive Headteacher, Head of School or a senior colleague will notify the parent/carer immediately. This contact will be by telephone in the first instance and will be followed up in a formal letter within 48 hours.

9.1.2. Exclusion letters will be sent to parents/carers and will outline the following:

- The reason for the exclusion.
- The duration and nature of the exclusion e.g. fixed term or permanent and the student's expected return date.
- How the education provision will be delivered to the student during their exclusion including procedures for setting and marking work.
- The timescales for making written representations regarding exclusions of 5 or less days. Written submissions will be considered by the Discipline Committee and added to the exclusion records but the Executive Headteacher or Head of School's decision cannot be overturned.
- The timescales for requesting a review of fixed term exclusions of more than 5 days and permanent exclusions.

- How the student may be involved in the process of making representations e.g. making a written submission stating the reasons for challenging the decision to exclude.

## **9.2. Following the outcome of the Discipline Committee**

9.2.1. If the Discipline Committee upholds the decision to exclude permanently, it will write to the student's parent/carer within one school day and will outline the following:

- The right of the parent/carer to an Independent Appeals Panel to which they can make oral or written representations.
- The contact details for the Independent Appeals Panel Clerk should they wish to appeal.
- The timescales in which to appeal (15 Academy days from the date of the Discipline Committee decision).
- That any appeal request should outline the grounds for the appeal.
- That the right of appeal is not affected if the parent/carer did not make representations to the Discipline Committee.

## **10. INDEPENDENT APPEALS PANELS**

### **10.1. Appeals hearings**

10.1.1. Parents/carers whose child is excluded permanently have the right to appeal to the Independent Appeals Panel against the decision made by the Discipline Committee

10.1.2. Any appeal must be lodged in writing to the Clerk to the Appeals Panel within 15 school days from the date of notification of the decision.

10.1.3. The panel should meet as soon as practicable from receiving the notification of appeal, usually within the 15-day timeframe.

10.1.4. Parents/carers can require that the Academy appoints a SEND expert to advise the appeals panel.

10.1.5. Parents/carers may issue a claim under the Equality Act 2010 where they believe that unlawful discrimination has occurred. Such a claim should be lodged within 6 months of the date of exclusion.

### **10.2. Arranging an appeal hearing**

10.2.1. The Independent Appeals Panel will be made up of three Independent Panel Members who have been appointed by the GB.

10.2.2. The Academy may appoint a clerk, who has not previously served as clerk to the Discipline Committee, to provide advice to the panel and parties to the review on procedure, legislation and statutory guidance on exclusions.

10.2.3. Those who are entitled to attend the hearing in order to make their representations either verbally or in written form are:

- The parent/carer and their representatives
- The Executive Headteacher or Head of School and their representatives
- The Chair of the Discipline Committee and their representatives
- A SEND expert if applicable

10.2.4. The student may attend the hearing to make their own representations. The Independent Appeals Panel may only refuse this if there is a valid reason to do so.

10.2.5. The Independent Appeals Panel will not reinstate students purely on the basis of technicalities relating to prior procedures

### **10.3. Role of the Clerk**

10.3.1. The role of the Clerk is to administer the appeals process.

10.3.2. The Clerk must not be the same person who served as Clerk at the previous Discipline Committee hearing.

10.3.3. The Clerk will have some form of legal training and experience in the conduct of appeal hearings.

10.3.4. They will establish the attendees who will be present at the hearing, and the role they will play and they will then ensure that this information is circulated to all parties as soon as is practicable following the Notice of Appeal.

10.3.5. They will make available all written evidence to the panel members and the parent/carer no less than 4 school days prior to the appeal hearing.

10.3.6. During the hearing, if the panel withdraws or invites the parties to do so whilst it considers its decision, the Clerk will remain with the panel for the purpose of offering procedural or legal advice, and to record any decisions and the reason(s) they were reached.

### **10.4. Procedure at the hearing**

10.4.1. The Chair or Clerk should welcome the parties and introduce those present, and inform the hearing that its decision is binding on the parties.

10.4.2. The intended order of hearing should be notified in advance to the parties. It may be changed if there is good reason to do so and so long as the change would be fair.

10.4.3. The Chair should outline the order of the hearing and explain that the parties will be able to make their representations and following each case, that there will be an opportunity for questioning.

10.4.4. The order should be such as to allow the Chair to lead the panel in establishing the relevant facts. If the parent/carer appears to be having difficulty in presenting their case the Chair should assist them to ensure that their case is established and that factual matters not in dispute are clearly identified.

10.4.5. Sufficient time will be allowed for each party to put its case. At the end of each party's statement and following questions by the other parties, the panel members may also ask questions in order to clarify an issue or to elicit more information.

10.4.6. If the panel wishes to vary the notified procedure it should only do so after hearing the views of all the parties present.

10.4.7. At any stage during the proceedings, any party may ask for a brief adjournment. In exceptional cases the panel may adjourn the appeal to a later date. If there is an adjournment, it is essential that no part of the proceedings take place other than in the presence of all the panel members.

10.4.8. Under no circumstances can an appeal hearing continue if the number of panel members drops below 3 during the appeal. Once an appeal has commenced, no member of the panel may be substituted for a new member.

10.4.9. Care must be taken to ensure that no party attending the hearing is present alone with the panel in the absence of other parties.

10.4.10. The Appeals Panel will not reinstate students purely on minor 'technicalities' relating to prior procedure, where the panel agree that irrespective of the technicality the exclusion was justified. The Appeals Panel will then consider separately the question of whether the student should be reinstated.

### **10.5. Evidence and Witnesses**

10.5.1. If additional matters or documents are raised which were not covered by the statement of decision, or the notice of appeal, any parties raising them should do their best to submit them to the Clerk in good time before the hearing.

10.5.2. If substantial new issues or information are raised for the first time at the hearing, the panel should consider allowing an adjournment if that is appropriate.

10.5.3. All parties should be given details of any witnesses in advance of the day of the hearing.

10.5.4. The panel may hear evidence from others, directly or indirectly, involved or who were witnesses to the incident(s), including the student.

10.5.5. The panel may call a teacher(s) who investigated the incident and interviewed students. Teachers may be accompanied by a friend or colleague if they so request.

10.5.6. The panel cannot compel witnesses to attend and any witnesses must therefore appear before it voluntarily. Where adult witnesses are unwilling to appear or are unavailable the panel may rely on their written statements, copies of which should have been circulated to all parties by the Clerk before the hearing.

10.5.7. In the case of witnesses who are students, it will generally be appropriate for the panel to rely on their written statements. Students may, however, appear as witnesses in person if they do so voluntarily and with their parents'/carers' consent.

10.5.8. All written witness statements should be attributed and signed except where there is good reason to wish to protect the anonymity of students, in which case relevant names may be blanked out. The general principle remains that someone accused of something should know the substance and the source of the accusation.

10.5.9. Where relevant, physical evidence, if practicable, should be retained and be available to the panel if they wish to see it. Alternatively, photographs or signed witness statements are acceptable as evidence.

10.5.10. The calling of character witnesses is at the discretion of the panel but should be allowed unless there is good reason to refuse.

## **10.6. Recording the proceedings**

10.6.1. The Clerk will retain all documentation pertaining to the hearing including:

- minutes of the proceedings,
- a list of those in attendance
- the voting
- the decision(s) reached and their rationale

10.6.2. Any notes taken during appeals should be retained by the Clerk to assist with the decision-making process

10.6.3. Records should be archived for 10 years

## **10.7. After the hearing**

10.1.1. The decisions of the Independent Appeals Panel are binding on all parties

10.1.2. The Clerk will ensure that the outcome and decision(s) of the panel are communicated to all parties as soon as practicable, but no later than 5 school days after the hearing

10.1.3. If the panel upholds a decision to permanently exclude a student, the Executive Headteacher or Head of school must inform the Local Authority in order to arrange appropriate alternative education provision. Where the student resides in a different local authority, the 'home authority' will also be informed.

10.1.4. If the student is permanently excluded their name will be removed from the roll, the day after the conclusion of the Independent Appeal hearing

10.1.5. If the student is reinstated by the Independent Appeals Panel, The Executive Headteacher or Head of School must be informed of the decision and the date on which the student is expected to return to the Academy.

10.1.6. Unless the panel directs otherwise, the student record will be amended to include the following:

Details of the events leading to the decision to exclude

- The statement of the decision
- The notice of appeal
- The written statement of the panel's decision

## **11. MONITORING, EVALUATION AND REVIEW**

11.1. Exclusions will be monitored at the LGB meetings.

11.2. This policy will be reviewed regularly by the Governors' Policy Committee.

## **Policy Amendment Form**

To be used by all staff across the school, for amendment, insertion/deletion as required.

Any amendments for submission are to be raised on this form and passed via the Executive Headteacher or Head of School for consideration, who will then arrange for the amendment to be presented to the Policy Board for their review, inclusion or rejection/re-submission within the Policy.

1	Copy the text for amendment into this section as per the Policy.
2	Re-type the text as amended, for review, inclusion or rejection, for Board consideration.

3	Reasons for amendment to be entered here in full.			
4	Seen by Executive Headteacher of Head of School			
	Date		Signature	
	Comments			
5	Seen by Policy Board on:			
	Date		Signature	
	Result	Reject	Include	
	Reasons			
	Remarks			
6	To be included and amended into the Policy by:			
	Date		Responsible	
	Appointment		Signature	

