



EXCLUSION POLICY

To be read in conjunction with the Department for Education (DFE) Exclusion from maintained schools, academies and pupil referral units in England guidance Sept 2017.

Trust key contact for inclusion queries, reporting and monitoring -

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DOCUMENT CONTROL

Description	By Whom	Date
First Established	TM	5 th Feb 2015
Latest Review	JG	Oct 2020
Approved by Trustees		22.3.21
Reviewed	JG	May 2022
Approved by ELT/Trustees	Anne Weinstock Chair	13 th July 2022

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1. INTRODUCTION

1.1 The Harmony Trust (The Trust) takes seriously its commitment to supporting pupils to achieve and succeed. The Trust behaviour policy details the procedures in place to ensure pupils behave in a suitable way which ensures they and their peers are making good progress both academically and socially. Good discipline is essential to ensure that all pupils can benefit from the opportunities provided by our academies. On rare occasions it may be necessary to exclude a pupil on a temporary or permanent basis.

1.2 This policy provides information and an overview of the exclusion process followed by the Trust and within our academies. It is not intended to replace the Department of Education (DFE) Exclusion Guidance issued in January 2022, which must be followed in all cases. This policy should, therefore, be read in conjunction with that statutory guidance: -

‘Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement Guidance for maintained schools, academies, and pupil referral units in England Department of Education January 2022’

1.3 The procedures in the DFE Exclusion Guidance apply to all our academies and all registered pupils in them whether below or above compulsory school age.

1.4 Behaviour policies are widely publicised within our academies so that pupils, parents, and all academy staff are aware of the standards of behaviour expected and the range of sanctions that may be applied. DFE Exclusion Guidance contains information on promoting positive behaviour and early intervention.

1.5 Principals, the Trust, local authorities (LA), independent review panel members, clerks, and Special Educational Needs (SEN) experts must by law have regard to the DFE guidance when deciding whether to:

- Suspend/exclude a pupil
- uphold an exclusion/suspension
- direct reinstatement
- recommend or direct that the Board of Trustees consider the exclusion/suspension again

1.6 The Trust is committed to following all statutory exclusion procedures to ensure that every pupil receives an education in a safe and caring environment and that any exclusion/suspension is lawful, reasonable, and fair. As a Trust, will ensure that no pupil is discriminated against based on protected characteristics, such as race or disability, and particular consideration will be given to the fair treatment of pupils from groups who are vulnerable to exclusion/suspension.

1.7 A Principal will only use suspension/exclusion as a sanction when a range of other strategies have been tried and exhausted. A permanent exclusion will only be used as a last resort, in response to a serious breach or persistent breaches of the academy’s behaviour policy and were allowing the pupil to remain in the academy would seriously harm the education or welfare of others in the academy. Before issuing a period of suspension, principals will consider whether a period of seclusion may be appropriate. Seclusions may be arranged internally within the pupil’s own

academy or in an alternative academy supported by staff from the pupil's own academy. It must be a period of separation where the pupil works away from their peers and without peer group social interactions. Work should be set by the classteacher and involve tasks the pupil can complete independently.

Planned periods of seclusion should be discussed with the Head of Inclusion prior to being put in place. Parents must be notified that a pupil is being placed in seclusion within the academy's own premises. Permission from parents is needed if the seclusion is to be completed at an alternative academy and parents should be asked to support with transport.

For all instances of seclusion internal records should be kept and the head of Inclusion notified using the Trust Seclusion/Suspension/Exclusion Notification Form within the Exclusion Support Manual 4.22. Records of seclusions are included in the report to trustees.

1.8 Before deciding whether to seclude/suspend/exclude a pupil, the principal will consider all the relevant facts and evidence, including whether the incident(s) leading to the suspension/exclusion were provoked; allow the pupil to give their version of events and consider any special educational needs. In establishing the facts, the principal must apply the civil standard of proof – 'on the balance of probabilities' is it more likely than not that a fact is true, rather than the criminal standard of 'beyond reasonable doubt'. **The principal should take the appropriate amount of time to gather this information and make an evidenced based decision.**

1.9 There are situations where a pupil may be secluded/suspended/excluded by the principal for behaviour outside of the academy. In such instances, the principal will seek advice from the appropriate Local Authority Behaviour and Attendance Service.

2. GENERAL ADVICE

2.1 Only the most senior person in the **academy (the Principal or the Executive Principal)** can make the decision to seclude/suspend/exclude a pupil (unless exceptional circumstances such as sickness apply). The principal may consult others including the Trust Inclusion Service, but not anyone who may later have a role in reviewing the principal's decision (CEO).

2.2 Principals should follow the procedures set out in the DFE Exclusion Guidance and this policy document.

2.3 In addition, the Trust has produced an "Associated Guidance Manual on Exclusions for Principals and Trustees" (referred to throughout as the Guidance Manual). The information contained within the Guidance Manual **must be followed without exception.** The Guidance Manual contains flow charts, checklists, templates for letters to be issued by Principals, meeting record forms, suspension/exclusion reporting form and details of the actual disciplinary procedure. **A copy of the Guidance Manual can be provided to parents if requested.**

2.4 The decision on whether to suspend/exclude is for a principal to take. Where practical, Principals should ensure that a thorough investigation has been carried out and allow and encourage pupils to present their case before taking the decision to suspend/exclude. A decision will be made on the 'balance of probabilities' which differs from the criminal standard 'of beyond reasonable

doubt'. Exclusion/suspensions should not be imposed in the heat of the moment unless there is an immediate threat to the safety of others in the academy or the pupil concerned. **The Head of Inclusion must be contacted before any internal seclusions/off site seclusions/suspensions/exclusions are put in place.**

2.5 Any decision of a principal or the Trust in relation to suspension/exclusion must be made in line with the principles of the Equality Act – that it is lawful, rational, reasonable, fair, and proportionate.

2.6 It is unlawful to exclude a pupil for a non-disciplinary reason. For example, it is unlawful to suspend/exclude a pupil simply because the pupil has additional needs or a disability that the academy feels it is unable to meet, or for a reason such as academic attainment/ability, or the action of a pupil's parents, or the failure of a pupil to meet specific conditions before they are reinstated - such as to attend a reintegration meeting. However, a pupil who repeatedly disobeys a teachers' academic instructions could be subject to suspension/exclusion.

2.7 'Informal' or 'unofficial' suspensions, such as sending a pupil home 'to cool off', are unlawful regardless of whether they are done with the agreement of parents or carers.

2.8 Any suspension/exclusion of a pupil, even for short periods of time, must be formally recorded.

2.9 Whilst suspension/exclusion may still be an appropriate sanction, Principals should take account of any contributing factors that are identified after an incident of poor behaviour has occurred. For example, where it becomes known that a pupil has suffered bereavement, has mental health issues or has been subject to bullying or provocation and the seriousness and/or persistence of the pupil's behaviour.

2.10 Early intervention to address underlying causes of disruptive behaviour should include an assessment of whether appropriate provision is in place to support any special educational needs (SEN) or disability that a pupil may have. Principals should also consider the use of a multi-agency assessment (including Early Help) for pupils who demonstrate persistent disruptive behaviour. Such assessments may pick up unidentified special educational needs, but the scope of the assessment could go further, for example, by seeking to identify mental health or family problems. **The support of the inclusion service should be obtained via the Head of Inclusion, to develop a prevention/support programme for any pupil at risk of repeated suspensions/exclusion.**

2.11 Principals should consider that the **suspension/exclusion rates for pupils from vulnerable groups** are consistently higher than average. This includes pupils with SEN, pupils eligible for free school meals, looked after children (LAC), post looked after children (PLAC) and pupils from certain ethnic groups. The ethnic groups with the highest rates of suspension/exclusion are Gypsy/Roma, Travellers of Irish Heritage and Caribbean pupils. **Particular consideration should be given to pupils designated as Children in Need (CIN) or with Care Plans (CP) to ensure that the process of excluding them is not causing or increasing a safeguarding issue.**

2.12 The Trust has a statutory duty to do its best to ensure that the necessary provision is made **for any pupil who has SEN and to avoid excluding permanently any pupil with an Education,**

Health, and Care Plan (EHCP). Where a pupil has an EHCP and is at risk of suspension/exclusion, the Principal and the Trust should look at provision, assess whether additional support or alternative provision is needed and **urgently consider holding an early annual review or interim/emergency review. The Head of Inclusion should be contacted immediately where a pupil with an EHCP is at risk of repeated suspension/exclusion.**

2.13 The Trust has a legal duty under the Equality Act 2010 **not to discriminate against disabled pupils** by excluding them from school because of their disability. This applies to permanent exclusions and suspensions. Principals must inform the Head of Inclusion in the event of a suspension/exclusion of any pupil with an EHCP or whose details are held on the vulnerable pupils list.

2.14 **LAC and PLAC are at risk of low attainment in school and suspension/exclusion.** Principals and the Trust must be especially sensitive to exclusion issues where LAC are concerned. Every practicable means should be tried to avoid suspension/exclusion and Principals should seek Local Authority (LA) and other professional advice as appropriate, including the inclusion of the Virtual Head.

2.15 The Trust has the power to direct a pupil off-site for education to improve his or her behaviour. A pupil can also be transferred to another school/academy as part of a 'managed move/fresh start'. Any move should initially be carried out on a temporary basis to assess likely success. These actions require the consent of the parents/carers. The local authority must be kept informed of and arrangements made regarding a pupil moving to another school/academy. The head of Inclusion should be contacted immediately before and temporary or permanent moves to pupil placements are made.

2.16 The Trust cannot force a parent to remove their child permanently from the academy or to keep their child out of the academy for any period of time without formally excluding. The threat of exclusion cannot be used to influence parents to remove their child from the academy.

2.17 The **process of disciplinary suspension/exclusion from the academy and criminal proceedings** can and should run parallel and decisions should not be postponed merely because the police investigation has not been concluded.

2.18 Any reference in this policy to parent(s) includes all those with parental responsibility.

2.19 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.

2.20 The Trust may delegate decision making to the Chief Executive of the Trust or their representative. The Trust can also delegate some or all its functions in respect of suspension/exclusions to a committee consisting of at least three trustees or trust associates. **In the case of our Trust these functions have been delegated to the Trustees Discipline Committee (Discipline Committee).**

3. SECLUSIONS/SUSPENSION/EXCLUSION - TYPES AND CLARIFICATIONS

A. Seclusions

3.1 Internal Seclusion

An internal seclusion is defined as a pupil spending a planned, pre-determined amount of time with a nominated member of SLT within their **own academy**. Work will be provided for pupils to complete for the duration of this seclusion. Internal seclusions should only be considered when the academy's usual behaviour policy has been applied or for a significant incident.

An internal seclusion *is not* an instance where a pupil may be asked to spend a short amount of time in another classroom or with another member of staff following a display of relatively *low-level* negative behaviours (decided at the time of any incident).

3.2 External Seclusion

An external seclusion is defined as a pupil spending a planned, pre-determined amount of time at **another local Harmony Trust Academy**. The Head of Inclusion should be consulted before making any decision about a pupil being externally secluded. Work will be provided for pupils to complete for the duration of this seclusion, and they will spend their time with a nominated member of the host 'home' academy's staff. Regular communication will take place between the two academies. A risk assessment must be written by the 'home' academy and signed by the pupil's parents to show their consent to the external seclusion. All external seclusions should be reported to the Head of the Inclusion service so that monitoring can be completed, and support allocated as needed using the seclusion/suspension/exclusion reporting form in App. 1 annex C of the guidance manual.

B. Suspensions

3.1 This is an exclusion for a **fixed number of days as determined by the principal of the academy**. A pupil may be suspended for one or more fixed periods (up to a maximum of 45 school days in a single academic year). During this fixed period, the pupil is barred from the academy and parents must ensure that the pupil is not present in a public place during normal school hours without reasonable justification. If this is not adhered to the parents may be prosecuted or receive a penalty notice from the LA.

3.2 A suspension does not have to be for a continuous period. Such a suspension can also be for parts of the school day. A pupil may also be suspended during lunchtimes only for a **fixed number of days**. Each lunchtime suspension is equivalent to half a day fixed period exclusion.

3.3 If a lunch time suspension takes place arrangements should be made to provide a lunch if the pupil is entitled to free school meals. If a parent refuses to co-operate with a properly given lunchtime suspension by refusing to collect (or arrange to have collected) his or her child, the academy must have due regard for the pupil's safety in deciding what action to take.

3.4 **During the first 5 days of a suspension** the child must remain at home and supervised appropriately. The academy will set work from day one and arrange for it to be marked. **If the suspension extends beyond 5 days, the academy must ensure the pupil is offered full time alterna-**

tive education provision and parents must be provided with full details of any arrangements. Consecutive suspensions which total more than 5 days also require full time alternative provision to be made from the 6th day.

3.5 A pupil is entitled to return to the academy once the period of suspension has ended.

3.6 At the end of every suspension **a reintegration meeting** should be held with the pupil and parents to ensure all parties are fully aware of the behaviour and circumstances that led to the suspension. Discussion should be held to clarify that the pupil and parents understand the academy's behaviour policy and behaviour expectations from the pupil. Any support to be provided should also be identified at this point. **A reintegration meeting record sheet will be completed to make a record of agreed actions and a copy will be given to both the parents and pupil and a copy will be placed on the pupil file for record purposes.**

3.7 In the case of **one or more suspensions totalling 5 days or less in a school term**, the parents can make written representations about the decisions to the Trust. The Discipline Committee (see Section 8 of this policy) must consider such representations but has no power to direct reinstatement and is not required to arrange a meeting with the parents before reaching any conclusions.

3.8 If the pupil receives a suspension which results in them having **been suspended for 5 days or more in a school term but not more than 15 school days**, the parents can choose to make representations about the suspension. If such a request is received, then the Discipline Committee must meet within 50 school days of receiving the notice of representations to review the decisions of the principal and consider whether they were lawful and procedural correct and if the pupil is still suspended whether reinstatement should take place. In the absence of any representations from the parents, the Committee is not required to meet and cannot direct reinstatement of the pupil.

3.9 If the pupil's suspensions **total more than 15 days in a term** then the Discipline Committee must meet within 15 school days of receiving notification of the suspension to review the suspensions. The Committee is required to meet to ensure that the correct procedures have been implemented and that the suspensions that have contributed to the 15 plus days are proportionate and in line with the Academy Behaviour Policy. Parents can make verbal representations to the Committee if they so wish.

3.10 Where a suspension would result in a pupil **missing a public examination or national curriculum test**, the Discipline Committee must, as far as is reasonably practicable, meet within 15 school days and consider the suspension before the date of the examination or test and decide whether to reinstate the pupil. If there is insufficient time for the Committee to meet, the Chair of the Board of Trustees or the Chair of the Discipline Committee can consider the suspension independently and decide whether to reinstate the pupil. Parents have the right to make representations to the Committee or the Chair as appropriate. **In all cases the principal must make alternative arrangements to enable the pupil to complete the test.**

C.) Permanent Exclusion

3.11 This is where the principal's intention is that the pupil should not be allowed to return to the academy and the pupil is permanently barred from the academy premises. The decision should only be taken:

- in response to a serious breach/persistent breaches of the academy's behaviour policy and
- if allowing the pupil to remain in the academy would seriously harm the education or welfare of the pupil or others in the academy

3.12 In most cases, this will be after a wide range of alternative strategies have been tried without success but there will be exceptional circumstances where, in the principal's judgement, it might be appropriate to permanently exclude a pupil for a serious breach (one-off or first offence). These might include serious actual or threatened violence, sexual abuse/assault, supplying an illegal drug or carrying an offensive weapon.

3.13 The Discipline Committee has a duty to meet within 15 school days of receiving notification of a permanent exclusion to consider the case of the principal for carrying out the exclusion and to consider any representations made by the parents.

c) Suspension or Permanent Exclusion

3.14 In some serious cases a full investigation may not be immediately possible if, for example, the incident is complex, and several witness statements are required.

3.15 In this case, a Principal may issue a suspension for a short period (a maximum of 5 days is advised). **Parents must be made aware that the suspension is in place to enable investigations to take place to enable the Principal to determine if a permanent exclusion is required. A paragraph to this effect will be inserted into the suspension notification letter.** If, during the investigation further evidence comes to light which requires a further suspension or permanent exclusion, the Principal should issue this to run consecutively. If the further evidence leads the Principal to decide to issue a permanent exclusion **the suspension that was originally put in place to enable the investigation to take place cannot be extended or converted to a permanent exclusion. The permanent exclusion must be issued from the date following the day the suspension ended.**

4. INFORMING PARENTS

4.1 **Once a decision to suspend/exclude has been reached, the parents must be notified without delay. This should be through a conversation at the academy or by telephone and the pupil should be collected from the academy. A letter to inform of the decision should be sent by the Principal within one school day.** There are specific requirements for what should be stated in the letter. **Templates** for letters to be sent by Principals to parents can be found within the separate Guidance Manual. **These letters should not be altered in any way beyond that detailed within this policy.**

4.2 The following information **must** be provided in the letter:

- the reason(s) for the suspension/exclusion. It is important for the Principal to **carefully consider the reason(s) for suspension/exclusion and clearly state them in the letter, as further reasons cannot be introduced at a later stage**
- the period of suspension or, for a permanent exclusion, the fact that it is permanent
- if a suspension is used to facilitate further investigation because a permanent exclusion is being considered then this must be set out and made clear in the letter to the parents
- information for the parents about their right to make representations about the suspension/exclusion to the Discipline Committee and how the pupil may be involved in the process
- how any representations can be made by the parents
- where there is a legal requirement for the Discipline Committee to consider suspension/exclusion, explain that the parents have a right to attend a meeting, to be represented at that meeting (at their own expense) and to bring a friend

4.3 The letter should also draw attention to relevant sources of free and impartial information, regarding exclusions, namely:

- the DoE statutory guidance on suspensions/exclusions:
<https://www.gov.uk/government/publications/school-exclusion>
(DoE reference 00184 2017)
- the DoE statutory guidance on school discipline and exclusion from school at:
<https://www.gov.uk/school-discipline-exclusions>
- complaint against a school/academy at:
<https://www.gov.uk/complain-about-school/state-schools>
- the Coram Children's Legal Centre which promotes children's rights at:
<https://www.childrenslegalcentre.com> (telephone advice line service 0345 345 4345 – available Monday to Friday 9am -8pm and Saturday 9am – 12.30pm).
- ACE Education Advice for Parents at: <https://www.ace-ed.org.uk> (telephone advice line service 03000 115 142 - available Monday to Wednesday from 10am to 1pm during term time)
- Independent Provider of Special Education Advice at: <https://www.ipsea.org.uk>
- the Council for Disabled Children, which also incorporates the Information Advice and Support Services Network (formerly known as parent partnerships) at:
<https://www.councilfordisabledchildren.org.uk>
- the National Autistic Society Schools Exclusion Service (England) at:
<https://www.schoolsexclusions@nas.org.uk> (telephone advice line 0808 800 4002 – available Monday to Friday 10am – 3pm)
- if considered relevant by the Principal (depending on the pupil concerned) links to other local services, such as Traveller Education Support Service.

Further information can be obtained from the appropriate local authority – as follows:

- Derby City Council –
<https://derby.gov.uk/education-and-learning/schools-and-colleges/exclusion-of-pupils/>
- Oldham Metropolitan Borough Council -
https://www.oldham.gov.uk/info/200335/problems_at_school/314/exclusions
- Tameside Metropolitan Borough Council –
www.tameside.gov.uk/Education/OrganisationandAdmissions/Exclusion-from-school

5. INFORMING TRUSTEES AND THE APPROPRIATE LOCAL AUTHORITY (LA)

5.1 Before any decision is made regarding implementing an internal or external seclusion, suspension or exclusion, the Principal must inform the Head of Inclusion to discuss the plan. If a suspension is agreed the appropriate local authority of:

- all planned suspensions and permanent exclusions, (if the pupil resides in another authority, the home LA should also be informed)
- attention should be drawn to suspensions that would result in the pupil missing a public examination or a national curriculum test

5.2 The Head of Inclusion will contact the Discipline Committee regarding any requirement for a meeting as and when necessary.

5.3 Where a suspension/exclusion is agreed with the Head of Inclusion the principal should submit a Trust Pupil Suspension/Exclusion Reporting Form to the Head of Inclusion in **respect of all types of exclusions**. The template can be found in the Guidance Manual.

5.4 The Trust must keep a record of all suspensions/exclusions for reporting to the DFE Census.

6. REGISTERS

6.1 Pupils will be marked as code E during a period of the suspension. Other codes may be used if alternative provision has been made. Principals can discuss this with the appropriate Education Attendance Service.

6.2 Pupils who have been permanently excluded should not be deleted from the academy/school roll until the independent review panel process is completed (see Section 9 of this policy), or the deadline for review is reached. Principals will be informed via letter when an exclusion has reached its effective date and the pupil can be removed from the academy/school roll.

7. EDUCATION PROVISION FOR EXCLUDED PUPILS

7.1 The academy's obligation to provide education continues while the pupil is on roll. In all cases of suspension, work should be set from day one and marked.

7.2 During the initial period of up to five school days, the parents are solely responsible for their child and must ensure that he/she is not present in a public place during normal school hours without reasonable justification.

7.3 From the sixth day of a suspension, the Trust has a responsibility to provide full-time alternative provision for the remainder of the exclusion. For LAC or SEN pupils with an EHCP, this should be from Day 1 where at all possible.

7.4 For permanent exclusion, the home LA is statutorily responsible for ensuring that suitable full-time education is provided from the 6th day of the permanent exclusion. Principals must ensure that the LA is notified on day one of any permanent exclusion. Wherever possible, the LA should be informed by telephone as soon as a decision to permanently exclude has been made and before any paperwork is completed.

7.5 Once a Principal has decided to permanently exclude a pupil, the LA will arrange to assess the pupil's needs and how to meet them (even though the exclusion decision might be overturned by the Discipline Committee).

8. THE DISCIPLINE COMMITTEE

a) Legal duty to consider Suspensions/Exclusions

8.1 Details of requirements for Trustees to review suspensions/exclusions are set out in Section 6 of the DFE Statutory Guidance. Trustees must by law, review certain suspensions/exclusions and must consider any representations about an suspension/exclusion made by the parents of the excluded pupil.

8.2 The Discipline Committee's role is to review suspensions/exclusions imposed by the Principal. The Committee can uphold a suspension/exclusion, or direct reinstatement immediately or by a particular date. A period of suspension cannot be extended or be substituted with a permanent exclusion.

8.3 The Discipline Committee must consider reinstatement of any suspended/excluded pupil within 15 school days of receiving notification of the exclusion if –

- the exclusion is permanent
- if 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 the pupil missing a public examination or a national curriculum test.

8.4 Where reinstatement would make no practical difference because, for example, the pupil has already returned to school following the expiry of a suspension, or the parents make it clear that they do not want their child to be reinstated, the Discipline Committee must still consider whether the pupil should be officially reinstated. If it decides against reinstatement of a pupil who has been permanently excluded, parents can request an independent review.

8.5 The Committee, which meets to consider any suspension/exclusion must be made up of at least three trustees/associates, none of whom have any connection with the pupil or incident that would affect their ability to act impartially. The Chair has the casting vote in all cases where an even number of trustees/associates are considering the case.

8.6 A clerk will be appointed by the Trust to handle the administrative arrangements of the Discipline Committee. The clerk's responsibilities are set out in the Guidance Manual.

8.7 In all suspension/exclusion cases, the Discipline Committee should comply with the statutory time limits but are not relieved of their obligation to carry out the relevant duty if they fail to do so. Accordingly, their decision will not be invalid simply on the grounds that it was made out of time.

b) Action prior to the meeting of the Discipline Committee

8.8 The Committee will arrange for the clerk to the Committee to invite the parents, the Principal and the LA to the meeting, at a time and place convenient to all parties. The parents can be accompanied by a friend or legal representative at their request.

8.9 A parent may invite an LA Representative to attend the meeting as an observer, but representations can only be made by the LA with the consent of the Committee. The LA does not have any decision-making role in the suspension/exclusion process. The Committee may ask the LA for specific technical advice on the procedure if required.

8.10 The pupil is also entitled to attend the meeting, and should be encouraged to participate, considering their age and understanding.

8.11 Where the Committee is legally required to consider the reinstatement of a suspended/excluded pupil they should:

- not discuss the suspension/exclusion with any party outside the meeting
- ask for any written evidence in advance of the meeting (including witness statements and other relevant information held by the academy such as those relating to a pupil's SEN)
- where possible, circulate any written evidence and information, including a list of those who will be present, to all parties at least five school days in advance of the meeting
- allow parents and the pupils to be accompanied by a friend or representative (where a pupil under 18 is invited to be a witness, this must be with consent of the parents who have the right to accompany their child)
- comply with their duty to make reasonable adjustments for people who use the academy and consider what reasonable adjustments should be made to support the attendance and contribution of parties at the meeting

- identify the steps they will take to enable and encourage the suspended/excluded pupil to attend the meeting and speak on their own behalf, considering the pupil's age and understanding; or how the suspended/excluded pupil may feed in their views by other means if attending the suspension/exclusion meeting is not possible

8.12 Committee members must familiarise themselves with the DFE Exclusion Guidance, read all the paperwork and prepare relevant questions to assist them in making a decision.

c) Possible Supporting papers

8.13 If a meeting is to be held, the Principal should prepare all supporting papers for the Suspension/ exclusion and pass them to the clerk for circulation to all parties at least five days in advance of the meeting. Principals should use the template in the Guidance Manual, which also includes details of relevant paperwork that should be included and circulated to all parties.

d) Procedure for the meeting of the Discipline Committee

8.14 A detailed procedure to be followed before, during and after the meeting is **attached to this policy document at Appendix 1.**

8.15 The Committee must ensure that clear minutes are taken of the meeting as a record of the evidence that was considered in reaching a decision. These minutes will be made available to all parties as soon as possible after the meeting.

e) Discipline Committee's Decision

8.16 Once the Committee has considered the cases and representations of the Principal and parents and reached a decision, the Principal, the parents and the LA will be informed of the decision without delay, and preferable within one school day of the meeting, stating the reasons for the decision. Any telephone contact will be followed up by letter within three school days. Where the pupil resides in a different LA area, that LA will also be informed.

8.17 The Committee can either direct the Principal to reinstate the pupil or it can uphold the Principal's decision to exclude the pupil.

8.18 A note of the Committee's views on the suspension/exclusion must be placed on the pupil's academy record with copies of relevant papers.

8.19 If the Committee directs reinstatement, this should take place as soon as possible. No conditions can be attached to any direction to reinstate the pupil.

8.20 Where the Committee upholds a permanent exclusion, there are specific requirements for what information should be included in the letter to parents.

8.21 If the decision is one to uphold the permanent exclusion the parents have a right to ask for a review by an Independent Review Panel as laid down in Part 8 of the DFE Exclusion Guidance.

The Trust must, at their own expense, make arrangements for the panel to be constituted and meet if such a request is received from parents.

8.22 Full details of the process and timescales in which to ask for a review will be contained within the letter sent to parents.

8.23 Templates for Principals letters to parents can be found in the Guidance Manual.

f) Notifying parents of the decision

8.24 When a permanent exclusion is upheld by the Discipline Committee, the decision letter to the parent (or pupil) should be sent within 3 working days. The letter must state the reasons for the decision, give the last day for lodging a request for an independent review (within 15 school days), provide the name and contact details for the clerk to the review panel and explain that the grounds for the review should be set out in writing. **If a parent does not request a review within the timescales the Trust must reject the application.**

9. THE INDEPENDENT REVIEW PANEL

a) The timing of the hearing

9.1 The panel must meet to consider an exclusion no later than the 15th school day after the day on which the review was requested. However, if necessary, the panel may then decide to adjourn the hearing.

b) Composition of independent review panels

9.2 Panels must consist of 3 or 5 members. One must be a lay member (can be an ex-governor), one must be a Principal or was one within the last 5 years (two for panels of 5 members), and one must be a governor who has served for 12 consecutive months in the last 5 years (two for panels of 5 members).

9.3 The Trust must set up the panel, will appoint an independent clerk and ensure that all the panel members and the clerk receive suitable training if required (Section 8 of the DFE Guidance on Exclusions refers).

c) Role of the clerk

9.4 The clerk provides an independent source of advice on procedures for all parties. Their role and training requirements can be found in section 8.3 of the DFE Guidance on Exclusions.

d) In advance of the meeting of the independent review panel

9.5 The Trust must take reasonable steps to find out when the parent and others entitled to attend the hearing would be available to ensure that all parties are able to attend. The Trust must also arrange a suitable venue for the panel hearing.

9.6 The following are entitled to make written representations, appear, and make oral representations, and be represented (including legally):

- the parent (or, if aged over 18, the pupil)
- the Principal
- the Trust/Discipline Committee
- the appropriate LA
- the SEN expert

9.7 The pupil is also entitled to attend the review, but if not attending then their views can be presented through a representative or by written statement.

9.8 The clerk should circulate all written evidence to all parties at least 5 working days before the hearing, including information about the parties attending.

e) Request for a SEN Expert (see DFE Exclusion Guidance)

9.9 If requested by the parents, the Trust must appoint a SEN Expert to attend the panel hearing. Parents have a right to a SEN expert regardless of whether their child has recognised or identified SEN.

9.10 SEN Experts could include specialist SEN teachers, educational psychologists, School SEN Co-ordinators (SENCO's), and behaviour support teachers.

9.11 The SEN Expert's role is to provide impartial advice to the panel on how special educational needs may be relevant to the exclusion, whether Trust policies in relation to SEN were legally reasonable and procedurally fair, whether the academy acted in a legal, reasonable, and procedurally fair way with regards to identification of SEN and any contribution that this could have made to the circumstances of the pupil's suspensions/exclusion.

9.12 The SEN Expert's role does not include assessing the pupil's special educational needs.

f) Conduct and role of the independent review panel

9.13 It is for the panel to decide how to conduct the proceedings, which should be reasonably formal so that all parties can present their case effectively. The meeting could take a similar form to that of the Discipline Committee meeting.

9.14 The role of the panel is to review the Discipline Committee's decision not to reinstate a permanently excluded pupil. The panel must take account of the circumstances of the excluded pupil and all others in the academy. The panel must apply the civil standard of proof (the balance of probabilities).

g) Reaching a decision

9.15 Information on what the panel should consider when coming to their decision can be found in the DFE Guidance on exclusions.

9.16 A panel can decide to;

- uphold the exclusion decision
- recommend that the Discipline Committee reconsiders their decision
- quash the decision and direct that the Discipline Committee considers the suspension/exclusion again

9.17 The panel's decision does not have to be unanimous and can be decided by a majority vote. The panel can request that a copy of the decision letter is placed on the pupil's record and the academy must comply with this request.

9.18 The panel may only quash a decision and direct reconsideration where it considers that the suspension/exclusion was flawed when considered in the light of the principles applicable on an application for judicial review - illegality, irrationality and procedural impropriety.

h) Financial Penalties

9.19 Where a panel directs a Trust to reconsider an suspension/exclusion it has the power to order that a readjustment of the academy budget be made if the Trust does not offer to reinstate the pupil within 10 school days of receiving notification. The sum of this adjustment must be £4000, payable within 28 days, and will be in addition to other monies that follow permanently excluded pupils.

i) Reconvening the Discipline Committee

9.20 If the panel directs or recommends that the Discipline Committee reconsider the suspension/exclusion, this must be done within 10 school days of notification. The Committee must conscientiously reconsider whether the pupil should be reinstated. Whilst the Committee may still reach the same conclusion as it first did, it may face challenge in the courts if it refuses to reinstate the pupil without strong justification.

9.21 Where a Discipline Committee has reconsidered a suspension/exclusion decision it must inform the relevant person, the Principal and the appropriate LA of its reconsidered decision and the reasons for it without delay. The Discipline Committee must comply with any direction from the panel with respect to placing a note on the pupil's record.

j) After the independent review panel hearing

9.22 The panel is independent. Its decision is binding on the parents, the Discipline Committee, the Principal, the Trust and its academy. The panel cannot revisit its decision once made.

9.23 The panel must let all parties know its decision without delay. The decision letter should give the panel's reasons for its decision in enough detail for the parties to understand why the decision was made.

9.24 If the panel upholds the permanent exclusion, the clerk should immediately report this to the appropriate LA. If the pupil is of compulsory school age, it is for the LA in whose area the pupil lives to decide as quickly as possible for the pupil to continue in suitable full-time education. If the pupil lives outside the area of the LA, the clerk should make sure that the home LA is also informed immediately of the position.

9.25 Where the exclusion is upheld the clerk should also advise the parents to contact the appropriate person at the home LA about arrangements for their child's continuing education. The Principal should remove the pupil's name from the academy/school roll the day after the conclusion of the panel hearing.

10. REMEDIES AFTER THE INDEPENDENT REVIEW

a) Complaint to the Secretary of State

10.1 A parent can make a complaint to the Secretary of State via the Education Funding Agency at the Department for Education.

b) Judicial review

10.2 Decisions of the Trust, the Discipline Committee and the Independent Review Panel can be subject to judicial review.

c) Claims of Discrimination in relation to the exclusion

10.3 Parents can also apply to the first-tier tribunal to hear cases of alleged disability discrimination, in addition to their current right to apply to a County Court to hear other cases of discrimination under the Equality Act 2010. The first-tier Tribunal will be able to direct reinstatement

11. RELATED LEGISLATION AND GUIDANCE DOCUMENTS

11.1 This policy is related to the following legislation and guidance:

- Children Act 1989
- DoE statutory guidance on exclusions - September 2017
- DoE statutory guidance on school discipline and exclusion from school
- Education Act 1966
- Equality Act 2010
- Gender Recognition Act 2004
- Human Rights Act 1998
- Keeping Children Safe in Education – Statutory Guidance for Schools – September 2020

12. LINKS WITH OTHER HARMONY TRUST POLICIES

12.1 This policy is linked with other Trust policies, particularly:

- Behaviour Policy and Academy Procedures
- Safeguarding/Child Protection Policy
- Equality and Diversity Policy
- Complaints Policy
- Special Educational Needs Policy and Information Report

12.2 All staff involved in managing pupil behaviour and exclusions must be aware of the contents of these policies and the relevant systems and procedures in place within our Academies.

13. EQUALITY IMPACT ASSESSMENT

13.1 Under the Equality Act 2010 the Trust has a duty not to discriminate against people because of their age, disability, gender identity, pregnancy or maternity, race, religion or belief and sexual orientation. This policy has been equality impact assessed and we believe that it is in line with the Equality Act as it is fair, it does not prioritise or disadvantage any pupil and it helps to promote equality in our academies.

14. MONITORING ARRANGEMENTS

14.1 The monitoring of this policy and the number of exclusions in our academies will be undertaken by the Head of Inclusion. The H of I. will submit a termly and an annual report to the Chair of Trustees and the Chief Executive of the Trust.

14.2 The practical application of this policy will be reviewed every two years or earlier if the need arises by the Trust key contact for suspensions/ exclusions. A statement of the policies effectiveness and any necessary recommendations for improvement will be presented to the Chief Executive of the Trust and the Trust Board for further discussion and endorsement.

15. DATA PROTECTION STATEMENT

15.1 The procedures and practice created by this policy have been reviewed in the light of our Data Protection Policy. All data will be handled in accordance with the Trust's policy. Full details can be found in the Guidance Manual.



16. APPENDIX 1 – TRUSTEES DISCIPLINE COMMITTEE PROCEDURE

Introduction

This Appendix is designed to assist parents, Principals and Trustees to fully understand the discipline process with regards to the role and procedure of the Discipline Committee. It consists of the following sections –

1. Actions prior to the meeting of the Committee and general guidance
2. Supporting documentation and paperwork
3. Procedure for the Meeting
4. Presentation of cases and representation
5. Final Summary by the Chair of the Committee
6. Making the decision and follow up action

1. Actions prior to the meeting of the Committee and general guidance

1.1 The Discipline Committee has been set up by the Harmony Trust Board of Trustees (The Trust) with the purpose of reviewing suspensions/exclusions imposed by the Principal. The Committee must be made up of at least three trustees/associates, none of whom have any connection with the pupil or incident that would affect their ability to act impartially. The Committee can uphold a suspension/exclusion, or direct reinstatement immediately or by a particular date. In the case of a suspension which relates to a pupil being suspended for 5 days or more in a school term but not more than 15 school days, the Committee can only review the decisions of the Principal to consider if they were lawful and procedural correct. In the case of a suspension the Committee cannot extend the suspension or substitute it with a permanent exclusion.

1.2 The Chair has the casting vote in all cases where an even number of trustees/associates are considering the case.

1.3 The Trust will appoint a clerk to handle the administrative arrangements. The clerk's responsibilities are set out in the Guidance Manual.

1.4 The Committee will arrange for the clerk to invite the parent, the Principal and the LA (if the parents request a LA representative) to the meeting, at a time and place convenient to all parties. The parent can be accompanied by a friend or legal representative at their request. The Principal can be accompanied by colleagues who are presenting part of the Principal's case. If any witnesses are required as part of the presentations by the parents or the Principal they can also be invited to attend the meeting.

1.5 A parent may invite an LA Representative to attend the meeting as an observer, but representations can only be made by the LA with the consent of the Committee. The LA does not have any decision-making role in the exclusion process. The Committee may ask the LA for specific technical advice on the procedure if required.

1.6 The pupil is also entitled to attend the meeting and should be encouraged to participate and speak on their own behalf, considering their age and understanding. If not attending the pupil can submit a written statement.

1.7 Where the Committee is legally required to consider the reinstatement of an excluded pupil the members will:

- not discuss the suspension/exclusion with any party outside the meeting
- ask for any written evidence in advance of the meeting (including witness statements and other relevant information held by the academy such as those relating to a pupil's SEN)
- where possible, circulate any written evidence and information, including a list of those who will be present, to all parties at least five school days in advance of the meeting
- allow parents and the pupils to be accompanied by a friend or representative (where a pupil under 18 is invited to be a witness, this must be with consent of the parents who have the right to accompany their child)
- comply with their duty to make reasonable adjustments for people who use the academy and consider what reasonable adjustments should be made to support the attendance and contribution of parties at the meeting
- identify the steps they will take to enable and encourage the suspended/excluded pupil to attend the meeting and speak on their own behalf, considering the pupil's age and understanding; or how the suspended/excluded pupil may feed in their views by other means if attending the suspension/exclusion meeting is not possible

1.8 Committee members must familiarise themselves with the DFE Exclusion Guidance, read all the paperwork and prepare relevant questions to assist them in making a decision.

2. Supporting documentation and paperwork

2.1 If a meeting is to be held, the Principal will prepare and collate all supporting papers for the suspension/exclusion and arrange for them to be distributed to all parties at least five school days in advance of the meeting.

Relevant paperwork to be included in the following order (with page numbers cross referenced to content page) for consideration by the Committee consists of:

- a contents page including page numbers
- a copy of the suspension/exclusion letter of notification to parent
- key timeline of events.
- chronology of breaches of the behaviour policy
- copies of any other suspension/exclusion letters
- copy of Trust Exclusion/Suspension reporting form
- copy of appropriate local authority suspension/exclusion reporting form
- attendance records
- copies of all witness statements (redacted and signed where possible and dated)
- any evidence e.g. screen shots, still photographs (ensuring that there is no way another pupil can be identified)
- excluded pupil statement (redacted and signed where possible and dated)
- copies of notes of any reintegration meetings
- Academy Discipline/Behaviour Policy; Academy Exclusion Policy and any other relevant policies
- Pastoral Support Programme – or Individual Education Plan with clearly identified behaviour targets
- details if the pupil is on the SEN list but does not have an EHCP
- details of any bespoke timetable
- proof that work has been sent home for the first 5 days of the suspension/exclusion and details of any alternative education provision offered if the suspension/exclusion has gone on beyond 5 days
- copies of any suspension/exclusion information sent to the LA
- records of interventions and support provided historically
- details of any alternative or enhanced curriculum
- information from LA support services and agencies
- any other document that the Principal feels would be of assistance to the Committee

3. Procedure for the meeting

3.1 The following is the recommended procedure that will be used during the meeting.

a) Pre-Meeting of The Committee

3.2 The Committee will need a short pre-meet prior to all parties being invited into the meeting room and this must be considered when agreeing timings with the parents and the Principal.

3.3 The clerk must ensure that any necessary additional/separate waiting areas have been provided for the parents/witnesses and any other parties involved. It is important for the parents to be reassured that the Principal and Committee have not discussed the suspension/exclusion prior to all parties being invited into the meeting.

3.4 Election of the Chair for the meeting (usually the Chair of the Discipline Committee).

3.5 Arrangements for the clerk to keep a record the meeting will be confirmed (the clerk does not take any part in the proceedings).

b) Commencement of Formal Meeting

3.6 The Chair of the Committee will invite the Principal (including any supporting colleagues), the parents (including friend or legal representative) and the LA representative (if attending) to enter the room together.

3.7 Introductions of all parties by the Chair of the Committee.

3.8 The Chair will then:

- explain the purpose of the meeting namely, to hear the case of the Principal which resulted in the suspension/exclusion; hear any representations the parents may wish to make; and for the Committee to consider whether to uphold the suspension/exclusion or reinstate the pupil or in appropriate cases to consider whether the decisions of the Principal were lawful and procedural correct
- ensure that all parties have received copies of the procedure and any supporting documentation
- go through the procedure that will be followed throughout the meeting (as outlined below)
- ascertain if any of the parties intend to call any witnesses as part of their presentations

3.9 A decision will then be made by the Committee whether to include the pupil. The involvement of the pupil in the meeting should be encouraged unless there are strong reasons for this not to happen.

4. Presentation of cases and representations

a) The Principal's case for suspension/exclusion

4.1 The Principal will be invited to explain what has happened to lead to his/her decision to Suspend/exclude the pupil and summarise his/her reasons for it. He/she may ask other relevant colleagues to help explain what has happened. Witnesses may be called in as appropriate. During the presentation the Principal should refer to the documents provided to all parties.

b) Questions to the Principal from the Parents

4.2 The parents and/or friend/legal representative will be given the opportunity to ask questions of the Principal and his/her colleagues.

c) Questions to the Principal from the Committee

4.3 The Committee will be given the opportunity to ask questions of the Principal and his/her

colleagues.

d) The Parents' representations/views

4.4 The parents, pupil and/or friend/legal representative will be invited to present their views concerning the suspension/exclusion and any other related matters. Witnesses may be called in as appropriate.

e) Questions to the Parents from the Principal

4.5 The Principal will be given the opportunity to ask questions of the parents, pupil and/or friend/legal representative.

f) Questions to the Parents from the Committee

4.6 The Committee will be given the opportunity to ask questions of the parents, pupil and/or friend/legal representative.

g) Any other questions

h) Summary by the Principal of the case for suspension/exclusion

4.7 The Principal will be given a final opportunity to sum up - but no new information should be presented

i) Summary by the parents of their representations/views

4.8 The parents/or friend/legal representative will be given the opportunity to sum up - but no new information should be presented

5. Final summary by the Chair of the Committee

5.1 The Chair will explain that there are two possible outcomes from this meeting:

- that the Committee direct the Principal to **reinstate** the pupil; or
- that the Committee **uphold** the Principal's decision to suspend/exclude the pupil

(Note – in the case of an exclusion were the pupil has been suspended/excluded for 5 days or more in a school term but not more than 15 school days, the Committee can only review the decisions of the Principal to consider if they were lawful and procedural correct).

- that the Committee members will be the only people involved in the decision making
- that the Committee's decision will be communicated to the parents, the Principal and the LA without delay, preferably within one school day of the meeting by phone call to the

parents stating the reasons for the decision. This will be followed up by letter from the clerk to the Committee within 3 school days. Where the pupil resides in a different LA area that 'Home' LA will also be informed

- that a copy of the minutes of the meeting will be sent to all parties as soon as available
- that if a permanent exclusion is upheld by the Committee, the letter to the parents will state the reasons for the decision, explain that the parent can ask for an independent review (within 15 school days) and give details of how to ask for such a review

5.2 At this stage the Chair will ask all parties, except the Committee members and the clerk, to leave the room to enable the Committee to consider their views and reach a decision. If for any reason, there is a need for further information or clarification the Chair can invite the Principal and the parents back into the meeting and if this is necessary all parties will be invited in together.

6. Making the decision and follow up action

6.1 Following the above procedure should ensure that all parties have an opportunity to present their views and ask questions. It also ensures that checks have been made that the suspension/exclusion procedure has been complied with. It also gives the Committee the opportunity to consider:

- on the balance of probabilities, has the pupil done what they are accused of
- whether there has there been a serious breach of the Academy's Discipline / Behaviour Policy (and other policies if relevant)
- whether allowing the pupil to return would harm the education/welfare of themselves or others
- whether, if applicable, a wide range of possible strategies to improve a pupil's behaviour were tried and have failed. (strategies could include the use of a Pastoral Support Programme)
- whether there has been due regard to the needs of children with Special Educational Needs and those with disabilities (the Equality Act 2010 refers) and the needs of Looked After Children

6.2 Once a decision has been made by the Committee the following actions must be taken:

- the Committee must inform the Parents, the Principal and the LA of the outcome and decision
- a note of the Committee's views on the exclusion will be placed on the pupil's school record with copies of relevant papers

- if the Committee has directed reinstatement, the Principal must ensure that this takes place as soon as possible. No conditions can be attached to any direction to reinstate the pupil.
- if the Committee upholds a permanent exclusion, there are specific requirements for what information should be included in the letter to parents. Full details can be found in the Guidance Manual.