



W A T E R T O N  
ACADEMY TRUST®



## Exclusion Policy

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## Key Changes

The last exclusions policy was approved in October 2020. The DfE updated the statutory guidance on suspensions and exclusions in July 2022 to come into effect on 1st September 2022. This policy has incorporated all changes to the DfE statutory guidance, including;

- The timeframe for informing parents of a suspension or exclusion, including the timeframe to inform parents of alternative provision arrangements for day 6+ provision (see section 9).
- The requirement to inform the Local Authority of all suspensions and permanent exclusions, regardless of the length of a suspension (see section 9)
- The requirement to involve a pupil's social worker and/or Virtual Head of Academy in Governor Review Meetings (see section 9).
- The requirement for data on pupil moves (e.g. Managed Moves and Alternative Provision) and the characteristics of pupils who are permanently excluded to be reviewed at Trust and ASC level (see section 10)
- The importance of Safeguarding as the paramount consideration, especially in instances of child-on-child abuse (see section 5).
- That governors may direct the reinstatement of a pupil for a suspension or permanent exclusion, regardless of the length of the suspension (see section 11).
- The governor review meeting paperwork should be circulated at least five academy days in advance of the meeting (see section 13).
- Clarification that police involvement should not delay a Headteacher's decision to suspend or permanently exclude a pupil and governors must not delay a review meeting past the statutory timeframe because of criminal proceedings (see section 15).

## 1. Introduction

All Waterton academies must ensure that their exclusion procedures comply with statutory guidance from the Department for Education (DfE), last updated in September 2022. As such, this policy supersedes all other academy level policy statements that relate to exclusions.

## 2. Aims

All parties involved in exclusions, including Headteachers, parents, Governance representatives and Independent Review Panels, must have regard to the statutory guidance. This policy outlines the key principles, roles and responsibilities around exclusion to ensure that all exclusion proceedings are conducted in line with statutory guidance.

Further guidance is available for parents, Governors and Headteachers on procedural matters relating to exclusions, available at:

Department for Education publication – 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 (2022). Available online at <https://www.gov.uk/government/publications/academy-exclusion>.

## 3. Suspensions and Permanent Exclusions

Exclusion can only be for a breach of an academy's behaviour policy, which must be published on the academy's website and proactively shared with pupils and parents. It is important that all pupils understand the academy's expectations of behaviour and the consequences for non-compliance with the policy.

**There are two types of exclusion: suspension and permanent.**

Suspensions must only be given for disciplinary grounds and must always be processed and recorded as a formal exclusion. This includes any short period of time when the pupil is excluded, such as lunchtimes or being sent home early. There is a maximum limit of 45 academy days in an academic year for suspensions.

Permanent exclusions may be in response to persistent breaches of the behaviour policy or for a one-off serious breach of the behaviour policy, **and** where allowing the pupil to remain in academy will be detrimental to the education and welfare of the pupil and/or others at the academy. Permanent exclusion must be a last resort, and Headteachers must consider alternative arrangements, such as a managed move, before permanently excluding any pupil. Please see below for further details about the Headteacher's role and the decision-making process for permanent exclusions.

The law does not allow for extending a period of suspension or 'converting' a suspension into a permanent exclusion. In exceptional circumstances, such as cases involving a serious breach of the behaviour policy where additional evidence (including mitigating evidence) is required before making a decision, the academy may issue a suspension pending investigation. Following investigation, the academy may issue a further separate suspension to begin immediately after the first suspension ends or a separate permanent exclusion to begin immediately after the end of the suspension. A Headteacher may cancel an exclusion that has not yet been reviewed by the governing body. When an exclusion is cancelled, the parents, governing body, LA(s) and, if relevant, the pupil's Social Worker and/or Virtual School Headteacher must be notified without delay. The parents should be offered the opportunity to meet with the Headteacher to discuss the circumstances that led to the cancelled exclusion.

#### 4. The Right to Education

All pupils of compulsory school age have a right to full time education and academies remain responsible for the education and welfare of all pupils on their roll up to the point when they are formally removed.

For any exclusion involving a pupil who is a Looked After Child, the academy and Local Authority must work together to arrange alternative provision from the first day of exclusion and document the provision of suitable education on the pupil's Personal Education Plan (PEP).

For all other pupils, the academy must set work, and have it marked, for the first five days of exclusion. Online provision such as Waterton Teams or Oak Academy can be used, but academies should ensure the work set is accessible and achievable for the pupil and they have the necessary equipment, such as a laptop. From day six onwards, alternative provision must be arranged. For permanent exclusion, the pupil's home local authority is responsible for arranging this, and for suspensions, the academy is responsible. Academies must carefully assess and monitor the quality of the alternative provision and ensure appropriate safeguarding measures are in place.

#### 5. Safeguarding

Academies have a statutory duty to safeguard and promote the welfare of their pupils and must have regard for the statutory guidance Keeping Children Safe in Education. Where an exclusion, or the governor panel's reinstatement of a pupil, coincides with a safeguarding investigation it is important that decisions regarding the duty to provide an education are made alongside the duty to safeguard and support children. This is particularly important in cases of child-on-child abuse and allegations of sexual violence and assault. In these circumstances, the academy's Designated Safeguarding Lead (or Deputy) should undertake the appropriate risk and needs assessments and take a leading role, supported by other agencies, to ensure that the welfare and best interests of the child come first.

#### 6. Equalities Legislation

Under the Equality Act 2010, pupils must not be discriminated against, victimised or bullied because of protected characteristics. This includes ensuring that policies and practices do not discriminate by unfairly increasing a pupil's risk of exclusion. Pupils with Special Educational Needs and Disabilities (SEND) are particularly at risk of this, and academies should be proactive to make reasonable adjustments to policy and practice, where needed, to avoid discrimination.

## 7. Reintegration

Suspension is a disciplinary mechanism available to academies and should be used to improve behaviour. Academies should support pupils to successfully reintegrate into academy life following a suspension and have a reintegration strategy that offers pupils a fresh start, helps them understand the impact of their behaviour and supports them to meet behaviour expectations in the future. The strategy should be discussed with the pupil at the reintegration meeting before or at the beginning of their return to academy and be reviewed and adapted over time in collaboration with the pupil and parents. Pupils must not be prevented from returning if their parent is unable to attend a reintegration meeting.

## 8. The Headteacher's Role in Exclusions

Only the Headteacher or acting Headteacher may exclude a pupil, and only for disciplinary reasons. It should be noted that the acting Headteacher is a senior leader in school who is acting in place of the Headteacher when they are absent, or when a Headteacher has not yet been appointed. Headteachers should ensure that the academy's behaviour policy is regularly reviewed, taking into account the views of stakeholders including pupils, parents, staff and governors, and that it is published on the academy website. Academies must also ensure that pupils understand the expectations within the behaviour policy and the potential consequences for non-compliance. This goes beyond publishing the policy on the website and should include proactive work with pupils to secure their understanding. The Waterton School Improvement team can provide advice on the behaviour policy and practice. Where an excluded pupil has SEND, the academy must demonstrate that they have met the requirements of the SEND Code of Practice. This includes relevant assessments to determine whether disruptive behaviour could be caused by underlying unmet needs, and a range of provision and support put in place to meet any need. If a pupil has an Education, Health and Care Plan (EHCP) and they are at risk of permanent exclusion, the academy should request an emergency EHCP review. Where any pupil has received multiple suspensions or is approaching the legal limit of 45 school days of suspension in an academic year, the Headteacher should consider whether exclusion is providing an effective sanction. Academies should engage with all preventative measures that are appropriate and available before excluding pupils and consider interventions set out in the DfE Behaviour in schools (September 2022) guidance. Permanent exclusion should only be used as a last resort either where a single incident is so serious there is no alternative available or in the case of multiple incidents where all alternatives have been considered and all strategies to change behaviour have failed. It must also be demonstrated that allowing the pupil to remain in academy would seriously harm the education or welfare of the pupil or others in the academy. To safeguard this practice, all Waterton Headteachers must discuss their decision to permanently exclude a pupil with the Trust SLT before issuing the permanent exclusion.

## 9. Duty to Inform All Relevant Parties

Parents/carers must be informed without delay of the length and type of exclusion, the reason(s) for exclusion and of their right to make representations to a panel of Governors. Initially, this notification should be by telephone or in person so the parent can ask questions if needed and then followed by a letter. In all circumstances, the parent/carer must be informed in writing before the afternoon period of the first day of exclusion, regardless of the duration of exclusion. All academies must use the template letters with attached exclusions guidance for parents as these are compliant with current statutory regulations.

Where alternative provision will be arranged from day 6, parents must be informed of the start date, name and address of the provider, start and finish time, and name of the person the pupil should report to on the first day. This information must be provided at least 48hrs before the provision is due to start.

Headteachers must, without delay, inform the Trust Governance team of any exclusion which will require automatic Governor review to ensure that a suitable Clerk can be appointed. This includes permanent exclusions, suspensions that result in the pupil being suspended for more than 15 days in one term and suspensions that will result in the pupil not sitting a public examination or national curriculum test.

Academies must inform the LA of any pupil suspension or permanent exclusion without delay in writing, and confirm the type and length of exclusion, start date, reason for exclusion, dates when pupil must not be present in a public

place and alternative provision arrangements. Different LAs will have specific forms to complete for reporting exclusions that academies should follow. The reasons for exclusion must give brief detail of the alleged behaviour, for example 'swearing at a member of staff', and not just state 'breach of behaviour policy'. In the case of permanent exclusion, if the academy's LA is different to the pupil's home LA, they must also be informed without delay.

If a pupil has a Social Worker (SW) they should be notified without delay of the pupil's period of exclusion and reason for it. If the exclusion requires review by a panel of Governors, the SW should be informed of the review meeting date and invited to attend, if they wish to do so. If the pupil is a Looked After Child (LAC), the LA has a corporate parent role and the academy should notify the Virtual School Headteacher (VSH) of the pupil's period of exclusion and reason for it without delay. Alternative provision must be in place for an excluded LAC pupil from day 1 and the VSH can provide advice and support for this. If the exclusion requires review by a panel of Governors, the VSH should be informed of the review meeting date and invited to attend, if they wish to do so. If the pupil is previously looked after (PLAC) the VSH can provide advice and information on request but there is no requirement to notify them of the exclusion.

## 10. Reporting and Recording Exclusions

Academies must follow statutory guidance to ensure the relevant parties are informed when a pupil is permanently excluded. They must also ensure all exclusions are recorded on the academy's Management Information System (MIS) and that the Governance Team are informed of any occasions when a Governor review panel is required. Data on suspensions, permanent exclusions and pupil moves must also be reported to Governors in the Headteacher's Report at the Academy Standards Committee meeting. Staff and Governors must comply with all relevant data protection requirements when processing, sharing and storing personal data as part of the exclusions process.

## 11. Review of the Decision to Exclude

For any suspension parents/carers have the right to make their representations to Governors. For any suspension which takes the total number of suspended days in any term to more than 5, Governors may direct the reinstatement of the pupil. The type and duration of exclusion determines the process and timeframe for Governor review.

- All permanent exclusions must be reviewed by a panel of governors within fifteen school days of the exclusion being issued.
- Suspensions, of any duration, that would result in a pupil missing a public examination or national curriculum test must be reviewed by a governor panel as soon as practically possible and at maximum within fifteen academy days. Attempts should be made to review the exclusion prior to the examination date, and in exceptional circumstances, the Chair of Governors may review the exclusion in lieu of a panel meeting.
- Suspensions that result in a pupil being excluded for more than fifteen days in one academic term must be reviewed by a panel of governors within fifteen academy days of the exclusion being issued.
- If requested by the parent/carer, a suspension of six to fifteen days must be reviewed by a Governor panel within fifty academy days of the exclusion being issued.
- If requested by the parent/carer, for a suspension of five or fewer days, governors must consider any representations made by the parent/carer but do not have to meet with parents to do so.

Waterton Academy Trust Trustees delegate the review of pupil exclusions to Academy Standards Committee Governors. Independent Governors who can review the exclusion without prior knowledge or bias will be sourced from the Trust-wide pool of ASC Governors. All governors who review exclusions must have received specific training from the central Governance Team prior to participating on a panel. The Chair must also have received external training on exclusion procedures. A panel will usually be constituted of three Governors, with clerking services provided by a member of the governance team. One Governor on the panel will be designated as the Chair of the meeting and, in the event of a request for external independent review (see section below entitled Independent Review Panel), will represent the panel at that independent review meeting. The Headteacher cannot be a member of the panel. Members of the panel must be impartial, unprejudiced, have taken no previous part in the specific case, and have no personal interest in its result. As standard practice, Headteachers must not discuss individual

exclusions with members of their ASC as cases may be referred to them for review. The review panel may either decline to reinstate the pupil (upholding the Headteacher's decision) or direct reinstatement of the pupil. The panel cannot convert one type of exclusion into another, for example; they cannot 'downgrade' a permanent exclusion into a suspension.

Where relevant, additional parties may be invited to attend the governor review meeting to provide context and background information for Governors, such as the pupil's SW, VSH and a LA representative. The parent(s) must always be invited to attend the governor review meeting, and reasonable adjustments should be made to encourage their attendance. Parents may be accompanied, on request, by a friend or representative. After the Governor review hearing, the Clerk will inform the parties in writing of the outcome, with reasons for the Governors' decision. Decisions are communicated as soon as possible, and every attempt is made to do this within 5 working days.

## 12. Standard of Review and Evidence

At all stages in the exclusion process, from the Headteacher's initial decision to the independent review panel, the civil standard of a 'balance of probability' is used when considering facts and evidence. This has a lower threshold than the criminal standard of review, 'beyond all reasonable doubt'. The Chair of the panel must ensure that all parties have an opportunity to make their representations and have their views heard before any decision is made. It is important that the evidence presented demonstrates this or gives a reasonable explanation for why another party's views are not available.

## 13. Review Meetings

All evidence and meeting paperwork should be distributed to all parties at least five working days before the hearing. In exceptional circumstances and at the discretion of the Chair, new evidence may be introduced at the hearing however all parties must be given reasonable time to review it. In exceptional circumstances and usually to meet statutory timeframes, the Trust may convene a panel of two Governors to review a pupil exclusion.

No party should be in the presence of Governors unless the other party is also present. Both the academy and parents/carers should enter and leave the review meeting at the same time and must not have any private discussion with Governors before the meeting or until after Governors have reached a formal decision.

## 14. Independent Review Panel

If a permanent exclusion is upheld, parents/carers must be informed of their right to seek an independent review of the Governors' decision and the deadline for seeking such a review. They also have the right to request the attendance of a SEND expert at the Independent Review Panel meeting. The request for an independent review panel must be submitted within fifteen academy days from receiving the review panel's decision.

Waterton Academy Trust will engage the services of a suitably trained Clerk to arrange and clerk the Independent Review Panel. This will not be the Clerk of the original panel. The independent review is normally attended by the Headteacher and Chair of the original governor meeting. The Clerk of the governor review meeting may attend but plays no formal part in proceedings. On occasion it may be considered appropriate for the academy to have legal representation. This will be arranged by Waterton Academy Trust.

The Independent Review Panel cannot direct a Governors to reinstate a pupil. It may:

- a) uphold the exclusion;
- b) recommend that Governors reconsider their decision; or
- c) quash the original decision and direct Governors to reconsider the decision.

In the latter case, the Independent Review Panel will usually order that the academy must make a payment to the Local Authority of £4,000 if it does not offer to reinstate the pupil.

## 15. Parallel police proceedings


The Headteacher does not have to delay issuing an exclusion if criminal proceedings are also being conducted. The Headteacher's decision is on the balance of probability (not beyond all reasonable doubt) and is made on the

evidence available to them so if this is sufficient to issue the exclusion they may do so. The Governors must not delay a hearing beyond the statutory time limit because of police proceedings and must make a decision on the balance of probability based on the evidence available to them at the review meeting. If a permanent exclusion is upheld in these circumstances, the parent has 15 days to request an independent review in the normal way.

## 16. Other relevant legislation and guidance

The legislation, guidance and regulations to which this guidance relates is:

- Education Act 2002, as amended by the Education Act 2011;
- School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012;
- Education and Inspections Act 2006;
- Education Act 1996;
- 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;
- 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 (July 2022);
- Working together to improve academy attendance. Guidance for maintained schools, academies, independent schools, and local authorities (May 2022)
- SEND code of practice: 0 to 25 years
- Special Educational Needs and Disability Regulations 2014 (Part 4)
- DfE Behaviour in schools (September 2022)

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