

Chorus Education Trust

Fixed Term and Permanent Exclusion Policy

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Contents

1.	Definition.....	3
2.	Aims.....	3
3.	Ownership	3
4.	Statutory Requirement	4
5.	Accountability for Exclusions	4
6.	Duty to Inform	6
7.	Alternatives to exclusion.....	7
8.	Seclusions	7
9.	Pastoral Support Plans	7
10.	Managed Moves.....	8
11.	Alternative Provision	8
12.	Fixed Term Exclusions.....	8
13.	Equality	10
14.	Permanent Exclusions.....	11
15.	Challenging an exclusion (fixed term or permanent).....	11

1. Definition

The Exclusion Policy is a system that helps the people that implement it to:

- Protect the students and staff.
- Encourage and promote what is acceptable.
- Enforce an exclusion in line with government guidance.

2. Aims

2.1 Chorus Education Trust 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.

The Trust aims to ensure that:

- Students feel safe and can develop academically, morally and socially.
- Guidelines are in place in terms of how unacceptable behaviour will be managed.
- The exclusions process is understood by governors, staff and parents/carers.
- The exclusions process is applied fairly and consistently.

2.2 The will enable the appropriate staff to ensure that an exclusion is only given for a serious incident and that the process leading to the exclusion is thorough, lawful, reasonable and fair in accordance with the DfE Guidance September 2017:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/641418/20170831_Exclusion_Stat_guidance_Web_version.pdf

3. Ownership

This policy has been developed working with staff and governors and in accordance with the updated DfE guidance September 2017 which takes into account:

- 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 Act 1996;
- the Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007, as amended by the Education (Provision of Full-Time Education for Excluded Pupils) (England) (Amendment) Regulations 2014.

4. Statutory Requirement

The school has to identify how discipline will be maintained and have a policy that indicates this. The linked documents to this policy show in depth information regarding the school's approach to behaviour management:

- Silverdale School behaviour policy available at:
<https://www.silverdale-chorustrust.org/policies>
- Westfield School behaviour policy available at:
<https://www.westfield-chorustrust.org/policies>
- Hope Valley College behaviour policy available at:
<http://www.hopevalley-chorustrust.org/policies>

The school has a duty to ensure pupils are not discriminated against in this process on the basis of disability or race. Particular care is given to the fair treatment of students from groups who are vulnerable to exclusion. The policy will be reviewed regularly by the Senior Leadership Team, Local Governing Body and the Board of Trustees.

5. Accountability for Exclusions

5.1 Before deciding whether to exclude a student, either permanently or for a fixed period, the following will be considered:

- The age and state of health of the student
- The student's previous record at the academy/college
- 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 and/or the frequency of its occurrence and the potential for further occurrences in the future
- Whether the behaviour impaired or will impair the normal functioning of the student or other students in the academy/college
- Whether the behaviour contravenes one or more of the rules outlined in the Academy /Colleges' Behaviour 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.

5.2 Only the CEO or Head of School/Principal or a person acting with the Head of School's authority can exclude a pupil and this must be on disciplinary grounds. A pupil may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or

permanently. A fixed-period exclusion does not have to be for a continuous period. (Annex B of this guidance, a non-statutory guide for head teachers, summarises the requirements for head teachers, but should not be used as a substitute for this guidance or the relevant legislation.)

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

A student may be given a fixed term or permanent exclusion for any of the following:

- Drug or alcohol related behaviour, including possession.
- Damage to property (school or other) including vandalism and arson.
- Criminal activity.
- Persistent bullying of another student or students.
- Persistent defiant behaviour.
- Persistent disruption to the life of the school.
- Physical assault against staff, student or member of the public.
- Racism, homophobia, transphobia, disability discrimination aimed at staff, student or member of the public.
- Refusing a Reasonable Request. In most instances refusing a Reasonable Request will result in 'Whole School Remove /Seclusion'. However should a student persistently refuse to follow staff instructions, for example refusing to go into 'Whole School Remove' or to wear uniform provided by school, they may receive a Fixed Period Exclusion.
- Sexually inappropriate language or behaviour aimed at staff, student or member of the public.
- Theft.
- Use of weapons (including carrying, using or threatening the use of).
- Unacceptable use of technology (including online bullying).
- Verbal abuse (including swearing) or threatening behaviour, including aggression and intimidation towards staff, students or member of the public.
- In cases where a criminal offence has taken place, the police may be informed and where appropriate, the Youth Offending Team, Social Services or any other outside agency involved with the student. Should the Executive Principal decide to permanently exclude a student she/he will inform the Local Authorities Exclusions Officer at the earliest possible opportunity.
- The behaviour of a pupil outside school can be considered grounds for an exclusion.

No student will be excluded solely for:

- Minor incidents e.g. failure to do home learning.
- Poor academic performance.
- Lateness or truancy.
- Pregnancy.

- Breaches of the school uniform rules except where these are persistent and/or in open defiance of the rules (see 'Refusing a Reasonable Request').
- The behaviour of their parents e.g. parents refusal or inability to attend meetings to discuss the behaviour of the student.

5.4 The Trust does NOT apply a rigid "tariff" when imposing a fixed-term exclusion. Such an exclusion would normally be for between one and five days, depending on previous record, severity of unacceptable behaviour and extenuating circumstances.

A decision to impose an exclusion and the length of the exclusion, would be based on the merits and circumstances of each case. The decision will be made by the CEO/Head of School/Principal in consultation with the Deputy Headteacher or Assistant Headteacher. *Evidence* from staff and students will inform the decision, but the *views* of staff, students and students' families have no part to play in determining an exclusion or its length.

For very serious, unacceptable behaviour, a four or five day exclusion is likely to be imposed. The reason for this is to allow time for the School to consider options and consult with other organisations about future strategies to support that student, be they back in School or in alternative provision. A further fixed term or permanent exclusion may follow an initial fixed term exclusion in light of the findings of further investigation.

5.5 There are circumstances in which the School is likely to judge that it is no longer appropriate for a student to continue to be educated within Chorus Education Trust. Such circumstances would include:

- Extremely serious behaviour which endangers the safety or welfare of the rest of the School community. For example, possession of an offensive weapon in School, possession or supply of a controlled substance in School, extreme and/or unprovoked violence against others.
- An overwhelming accumulation of disruptive, uncooperative behaviour. The student has not responded to a range of sanctions or support strategies over time, therefore causing sustained harm to the education and/or wellbeing of others.

6. Duty to Inform

6.1 The Head of School or representative will verbally inform the parents/carers of an exclusion without delay, and will provide the following information in writing within 2 school days:

- The reason(s) for the exclusion.
- The duration and nature of the exclusion e.g. fixed term/ 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.
- That parents/carers are legally required to ensure the student is not present in a public place during school hours.
- Information about parents'/carers' right to make representations about the exclusion to the Local Governing Body.

- 6.2 Without delay, the Head of School will notify the Local Governing Body and the Local Authority of:
- A permanent exclusion.
 - Exclusions of more than 5 school days in a term.
 - Exclusions which would result in a student missing a public examination.
- 6.3 For all other exclusions, the Headteacher/Head of School will notify the Local Governing Body and Local Authority once a term.

7. Alternatives to exclusion

Chorus Education Trust is committed to using exclusion as a last resort. Alternatives will always be considered and may include:

- Restorative practice processes.
- Whole School Remove/Seclusion: Isolation in a specialist room.
- 'Step Out' provision provided by another school within locally agreed protocol.
- Pastoral Support Plans.
- A managed move to another secondary school, in line with the locally agreed protocol.
- Alternative provision.

8. Seclusions

Students may be given an Internal Exclusion (Whole School Remove/Seclusion) and, if appropriate, be given additional support to review and learn from their behaviour e.g restorative practice, for any of the above as a means to try and alter their behaviour and ensure they don't repeat an offence. Parents will be notified of this.

Students are expected to behave appropriately whilst in School Remove and if a student refuses to follow the Seclusion Protocols they could be excluded from school.

Students at risk of exclusion (fixed term or permanent) will be referred to the Inclusion Team for further support and intervention.

Our behaviour policy clearly specifies unwanted behaviours that may lead to students being placed in School Remove.

9. Pastoral Support Plans

Students at risk of **permanent exclusion** will be placed on a **Pastoral Support Plan (PSP)** where parents, the student and key members of staff will work together on strategies to improve behaviour through agreed targets and regular meetings.

10. Managed Moves

Maintained schools and academies have the power to direct a pupil off-site for education to improve their behaviour. A pupil at any type of school can also transfer to another school as part of a 'managed move' where this occurs with the consent of the parties involved, including the parents and the admission authority of the school. However, the threat of exclusion must never be used to influence parents to remove their child from the school.

11. Alternative Provision

In some circumstances it may be deemed appropriate to make changes to a student's timetable in order to provide 'Alternative Provision'. Alternative Provision may be considered for a number of reasons, including instances in which Alternative Provision may support a student at risk of multiple fixed period exclusions/permanent exclusion. Alternative Provision may be delivered on the school site, or off-site by a Local Authority approved provider. In all instances, school will liaise closely with AP providers to monitor the progress, attendance and safety/well-being of students.

12. Fixed Term Exclusions

A fixed-period exclusion can be for full days or for parts of the school day. For example, if a pupil's behaviour at lunchtime is disruptive, they may be excluded from the school premises for the duration of the lunchtime period. The legal requirements relating to exclusion, such as the Head of School/Principal's duty to notify parents, apply in all cases. Lunchtime exclusions are counted as half a school day for statistical purposes and in determining whether a local governing board meeting is triggered.

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

The CEO/Head of School/Principal may withdraw an exclusion that has not been reviewed by the Local Governing Body.

When establishing the facts in relation to an exclusion decision the CEO/Head of School/Principal must apply the civil standard of proof; i.e. 'on the balance of probabilities' it is more likely than not that a fact is true, rather than the criminal standard of 'beyond reasonable doubt.' This means that the CEO/Head of School/Principal should accept that something happened if it is more likely that it happened than that it did not happen. The decision for a fixed term exclusion will be taken if the student behaved in such a way that no other alternative sanction is available other than to exclude them.

For exclusions of more than five school days the Head of School (or Local Authority in cases of permanent exclusions) will arrange and confirm the provision of suitable alternative full time education to begin no later than the sixth day of exclusion.

If a student has been excluded for a fixed period, **schools should set and mark work** for the first 5 school days.

'Informal' or 'unofficial' exclusions, such as sending a pupil home 'to cool off', are unlawful, regardless of whether they occur with the agreement of parents or carers. Any exclusion of a pupil, even for short periods of time, must be formally recorded.

12.1 What happens after a fixed term exclusion?

Any fixed term exclusion will be followed by a **reintegration meeting** to discuss the events leading to the exclusion. Parents & carers are expected to attend this meeting prior to the student re-joining normal lessons. In exceptional circumstances, this meeting can take place at home when parents are unable to come into school. If, at a reintegration meeting, it is not felt that the student can be reintegrated as they do not provide assurances that they will make an effort to comply with expectations as laid out in the school's Behaviour policy, a further Fixed Period Exclusion should be put in place and a further reintegration meeting scheduled.

What is discussed at a reintegration meeting?

The student will be asked to reflect on the actions that they took which led to the fixed term exclusion, and how to avoid similar incidents happening in the future.

The group will consider any additional information the parents/carers wish to share that may help school to support the students in the future.

To support the student's successful reintegration the staff may recommend:

- The student be given specific targets that can be monitored through their planner by their Pastoral Manager/Head of Year.
- The student be placed on a PSP (Pastoral Support Plan - see above), if appropriate, to reduce the risk of any further exclusions from school. If a student seriously contravenes the terms of the PSP it may result in a permanent exclusion.
- The student undertake a managed move (see above). This should take place if there have been previous fixed term exclusions or the seriousness of the incident puts the student at risk of further exclusion or at risk of permanent exclusion. The school has partnerships to enable managed moves through the Fair Access Panel.

If appropriate, suggestions about appropriate referrals to specialist services (i.e. GP, CAMHS, Ryegate, CYT, EP or MAST) will be discussed with Parents / Carers to ensure any assessment of need or specialist support is put in place as soon as possible. The school has working partnerships with the Local Authority and various other agencies to help support pupils following exclusions.

The success of the reintegration will be reviewed by the Key Stage Leader/Head of Year/Head of House after an appropriate period of time.

A **post exclusion briefing meeting** can be called by a member of SLT to review the incident and to reflect on whether any lessons can be learnt from it, and what support the student will need from teachers and support staff to reintegrate successfully. This is a session for staff only but the views of the student and parent will be taken into account.

13. Equality

13.1 Children Who are Looked After

In the case of a Child who is Looked After (CLA), attempts will be made to arrange alternative provision from the first day following the exclusion. Where it is not possible, or not appropriate, to arrange alternative provision during the first five school days the Head of School will take reasonable steps to set and mark work for the pupil. Any decision of a school, including exclusion, must be made in line with the principles of administrative law, i.e. that it is: lawful (with respect to the legislation relating directly to exclusions and a school's wider legal duties, including the European Convention on Human Rights and the Equality Act 2010); rational; reasonable; fair; and proportionate.

The CEO/Head of School/Principal must take account of their legal duty of care when sending a pupil home following an exclusion.

13.2 Children with Protected Characteristics

Under the Equality Act 2010 (the Equality Act), schools must not discriminate against, harass or victimise pupils because of: sex; race; disability; religion or belief; sexual orientation; pregnancy/maternity; or gender reassignment. For disabled children, this includes a duty to make reasonable adjustments to policies and practices and the provision of auxiliary aids.

In carrying out their functions, the public sector equality duty means schools must also have due regard to the need to:

- eliminate discrimination, harassment, victimisation, and other conduct that is prohibited by the Equality Act;
- advance equality of opportunity between people who share a protected characteristic and people who do not; and
- foster good relations between people who share a protected characteristic and people who do not share it.

These duties need to be complied with when deciding whether to exclude a pupil. Schools must also ensure that their policies and practices do not discriminate against pupils by unfairly increasing their risk of exclusion. Provisions within the Equality Act allow schools to take positive action to deal with particular disadvantages, needs, or low participation affecting one group, where this can be shown to be a proportionate way of dealing with such issues.

13.3 Children with SEN

The CEO /Head of School/Principal and the Local Governing Body must comply with their statutory duties in relation to SEN when administering the exclusion process. This includes having regard to the SEND Code of Practice. *'The head teacher should, as far as possible, avoid permanently excluding any pupil with an EHC plan or a looked after child.'*

It is unlawful to exclude for a non-disciplinary reason. For example, it would be unlawful to exclude a pupil simply because they have additional needs or a disability that the school feels it is unable to meet, or for a reason such as: academic attainment/ability; the action of a pupil's parents; or the failure of a pupil to meet specific conditions.

14. Permanent Exclusions

A decision to **permanently exclude** a student from school will be taken if:

- there is a serious breach, or persistent breach of the school's behaviour policy; and
- where allowing the student to remain in school would seriously harm the education or safety of the student or others within the school.

For the first 5 school days of an exclusion, it is the parent's responsibility to make sure the young person isn't in a **public place** during normal school hours unless there is a good reason.

15. Challenging an exclusion (fixed term or permanent)

Parents/carers have the right to challenge the decision to exclude. Details of which are provided in the letter sent to parents when the decision to exclude has been made.

15.1 Local Governing Body Review

The Local Governing Body or a nominated sub-committee of the body are statutorily required to review the CEO/Head of School/Principal's decision to exclude when:

- An exclusion will result in a student missing an examination.
- A permanent exclusion is issued.
- An exclusion takes the student's total days of exclusion above 15 in a term.
- When a student has been excluded for more than 5 days.
- If the exclusion is for 5 days or fewer, parents/carers can still ask the governors to hear their views but they cannot overturn the CEO/Head of School/Principal's decision.

The LGB sub-committee can either:

- Decline to reinstate the student, or:
- Direct the reinstatement of the student immediately, or on a particular date.

The parents/carers and the Head of School must be invited to the meeting and allowed to make representations. Where possible, all documents to be used in evidence should be distributed to all parties at least 5 school days before the meeting.

Minutes will be taken of the meeting, and a record of the evidence considered kept. The outcome will also be recorded on the student's record.

Where an exclusion would result in a student missing a public examination, the Committee must consider the reinstatement of the student before the date of the examination. If this is not practicable, the Chair of Governors may use the emergency powers for Chair's action to review the exclusion alone.

If a student is excluded for between 6 and 15 school days in a single term the Committee will consider the reinstatement of an excluded student only if requested to do so by parents/carers. This meeting should take place within 50 school days of receiving notice of the exclusion.

For fixed-term exclusions totalling 5 or fewer school days in any one term the Committee will consider any representations made by parent/carers, but it cannot direct reinstatement and is not required to arrange a meeting with the parent/carers.

In reaching a decision, the Committee will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the Head of School followed their legal duties. They will decide whether or not a fact is true 'on the balance of probabilities', which differs from the criminal standard of 'beyond reasonable doubt', as well as any evidence that was presented in relation to the decision to exclude.

If reinstatement is not practicable – because the student is already back or because the parent/carer does not want it – the review panel must consider the representations made by the academy and parent/carer(s), and decide whether or not the exclusion was justified.

The Committee will notify, in writing, the Head of School/Principal, parents/carers, and the Local Authority of its decision, along with reasons for its decision, without delay.

The decision of the LGB Committee is final for all fixed term exclusions

15.2 Independent Review

If the LGB Committee decline to reinstate a permanently excluded student, parents/carers can apply for an independent review and the Trust will arrange for an independent panel to review the decision.

Applications for an independent review must be made within 15 school days of notice being given to the parents/carers by the LGB Committee of its decision to not reinstate a permanently excluded student.

The independent panel will decide one of the following:

- Uphold the decision of the LGB Committee.
- Recommend that the LGB Committee reconsiders reinstatement.
- Quash the decision of the LGB Committee and direct that they reconsider reinstatement (only when the decision is judged to be flawed).

The Local Governing Body, the parents/carers and the Head of School/Principal should be invited to the hearing and informed of their entitlement to make representations. Where possible, all documents to be used in evidence should be distributed to all parties at least 5 school days before the hearing.

The clerk will ensure that the decision of the Panel is communicated, in writing, to all parties without delay.

15.3 Reconsidering Reinstatement

Where the Independent Review Panel directs or recommends reconsideration the LGB Committee must reconvene within 10 school days of notice of the decision.

There is no requirement to seek further representations from other parties or to invite them to the reconsideration meeting. Clear minutes will be taken of this meeting as a record of the evidence that was considered. These minutes will be made available to all parties on request.

The Committee must notify the parents/carers, the Head of School/Principal and the Local Authority of their reconsidered decision, and the reasons for it, in writing without delay.

Further details of the above can be found in the DfE Guidance September 2017:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/641418/20170831_Exclusion_Stat_guidance_Web_version.pdf

15.4 Discrimination and other complaints

Parents can make a claim to a court or a tribunal if you think your child's been discriminated against. You need to do this within 6 months of the exclusion.

Parents can contact the Equality Advisory Support Service for help and advice.