Plymouth CAST Multi Academy Trust

Exclusions

Policy

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Introduction

Plymouth CAST schools endeavour to provide a safe and welcoming environment where children are respected, valued, listened to, and in which their self-confidence grows and they achieve well academically and socially. Staff are alert to the signs of pupils experiencing difficulties, and take prompt action to ensure that children receive effective support, protection and justice.

Exclusions will always be a last resort.

Overview

Plymouth Trust schools must ensure that exclusion procedures conform to statutory guidance set out by the Department for Education (DfE) in 2017 and updated in September 2021:

Exclusion from maintained schools, academies and pupil referral units in England

This policy must be read in conjunction with the above document.

Headteachers will ensure that all parties involved in exclusions, including parents, governing bodies and Independent Review Panels, have regard to this statutory guidance

This policy aims to outline roles, rights and responsibilities around exclusion to ensure that all exclusion proceedings at Plymouth CAST schools are conducted in a fair and just manner, with appropriate notice to all, full participation of relevant parties, and within the statutorily designated timelines.

Fixed-Term and Permanent Exclusions Exclusion can only be applied for a breach of a school's behaviour policy, which must be widely published to all pupils and parents, and available on the school website.

Schools must ensure that academic, pastoral and specialist provision are effectively planned and focused to ensure that wherever possible pupils' individual needs are met and exclusion is avoided.

Types of Exclusion

There are two types of exclusion: fixed-term (or fixed-period) and permanent.

There is a limit of 45 school days in an academic year for fixed-term exclusions.

The law does not allow for 'converting' a fixed-term exclusion into a permanent exclusion.

The school may issue a fixed-term exclusion pending investigation and, where further evidence has come to light, issue a further fixed-term exclusion to **begin** immediately after the first exclusion ends; or a permanent exclusion to begin immediately after the end of the fixed-term exclusion.

Permanent exclusions can only be in response to persistent breaches of the school's behaviour policy or for a 'one-off' serious breach of the behaviour policy, where allowing the

pupil to remain in school will be detrimental to the education and welfare of the pupil and/or others at the school.

On the sixth day of an exclusion, the school (or local authority, in the event of a permanent exclusion) must arrange suitable full-time education for any pupil of compulsory school age.

Where a pupil receives consecutive fixed-term exclusions, these are regarded as a cumulative period of exclusion for the purposes of this duty.

A panel of governors must review permanent exclusions and any fixed-term exclusions which result in the pupil being excluded for more than 15 school days (singly or cumulatively) within one term.

Schools must record all exclusions on its Management Information System (MIS) in a timely manner, and keep careful track of fixed-term exclusions that total more than 15 days in a term.

All exclusions must be reported to Plymouth CAST using the appropriate form.

Permanent exclusions must be reported to the school's Education Standards Manager immediately.

Permanent exclusions must also be reported to the local authority immediately in line with local arrangements. This will enable the local authority to fulfil its duty to provide alternative educational provision from the sixth day of the exclusion.

If an exclusion requires review (i.e. fixed-term exclusions totalling more than 15 days in a term or permanent exclusions), schools should notify their Education Standards Manager (ESM) immediately, and ensure that the review meeting is held as soon as possible within the statutory time scales, and that arrangements are made for it to be appropriately clerked.

Exclusions, including an analysis of trends and context, must be reported to governors in the Headteacher's Report.

The Headteacher's role in Exclusions

Only the Headteacher or acting Headteacher can exclude a pupil.

Schools must not use 'informal' or 'unofficial' exclusions (e.g. sending a child off-site for a 'cooling down' period); these are illegal.

Where a pupil's behaviour at lunchtime requires a *lunchtime exclusion*, this must be dealt with in the same way as any other exclusion.

Where a pupil has received multiple exclusions, or is approaching the legal limit of 45 school days of fixed-term exclusion in an academic year, the Headteacher must consider whether exclusion is providing an effective sanction, and must discuss the matter with the school's Education Standards Manager.

The Headteacher will ensure that staff have the knowledge, skills and understanding to be aware of pupils who are becoming vulnerable to exclusion.

Exclusions are illegal if they occur for non-disciplinary reasons, such as:

- additional needs or a disability that the school feels it is unable to meet;
- lack of academic attainment/ability;

- the actions of a pupil's parent(s); or
- failure of a pupil to meet specific conditions before reinstatement.

Permanent exclusion should only be used as a last resort where all alternatives have been considered and all strategies to change behaviour have failed. The school must be able to demonstrate that every effort has been made to meet the child's needs and to modify behaviour.

The school must be able to demonstrate that allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

Where an excluded pupil has Special Educational Needs (SEN) or is on the SEN register, it must be demonstrated that the academy has regard for the SEN Code of Practice and has provided extensive means of support to help meet the pupil's needs.

Where a pupil with an EHC Plan is at risk of permanent exclusion or has been issued with a number of fixed term exclusions, the school should contact the Local Authority to request an interim review to assess the suitability of provision for pupil.

Early intervention to address underlying causes of disruptive behaviour should include an assessment of whether appropriate provision is in place to support any SEN or disability that a pupil may have.

Any intervention strategies should be discussed with and involve the pupil's parents.

Where a pupil is becoming vulnerable to exclusion, provision must be reviewed, and where necessary revised, and parents/carers, the school's Education Standards Manager, the Trust's SEND lead officer, outside agencies and the Local Authority involved as soon as possible.

If a Looked After Child is issued with a fixed term exclusion or is at risk of permanent exclusion, the pupil's social worker should be contacted as soon as possible.

Headteachers should ensure that the behaviour policy of the school is reviewed on an annual basis and approved by the Local Governing Board

Duty to Inform Parents

The parent(s) must be informed immediately and in writing of the length and type of exclusion, and of their right to make representations to the governors.

Pupils over 18 have to be informed and have the right to appeal on their own behalf.

In line with the duty of care placed on schools to ensure the welfare of pupils, parent(s) must be advised of an exclusion prior to the pupil being sent off-site.

Schools should use Plymouth CAST's standard letters for notifying parents of exclusions.

Review of the Decision to Exclude

In all cases of permanent exclusion and fixed-term exclusions amounting to over 15 days in a term (cumulatively or singly), the decision of the Headteacher must be reviewed by a panel of governors.

The panel should be constituted from members of the Local Governing Board (LGB) of the school and include a member of the Trust's School Improvement Team. **The school's Education Standards Manager should not be a member of the panel, as she/he will be providing support to the headteacher.**

The panel quorum is three governors, with a clerk appointed by the school.

The member of the School Improvement Team will chair the panel, in the event of a request for external independent review by parents (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.

Subject to the availability of governors, review meetings should be held within a period of 15 days from the date of the exclusion.

It is important that the school's Education Standards Manager is advised of the exclusion without delay, and that the Headteacher makes arrangements for paperwork to be prepared immediately.

The Headteacher should liaise with the Local Authority Exclusion/Inclusion officer, and support her/his attendance as an observer/advisor where appropriate.

- For fixed-term exclusions totalling **five or fewer school days** (or 10 or fewer lunch-times or half days) in any one term must be reported to the governors at each meeting and recorded on the MIS. The governing body must consider any representations made by parents, but it cannot direct reinstatement and is not required to arrange a meeting with parents.

- If an exclusion means that a pupil will miss a **public exam**, the panel should try to meet before the date of the exam. If this is not practicable, the Chair of Governors may use the emergency powers for Chair's action to review the exclusion alone.

- For fixed-term exclusions of **6 to 15 school days**, if the parents make representations, the local governing board must consider within 5 school days of receiving the notice of exclusion whether the excluded pupil should be reinstated. In the absence of any representations from the parents, the local governing board is not required to meet and cannot direct the reinstatement of the pupil.

- For fixed-term exclusions that singly or cumulatively total more than **15 days in one term**, and for **permanent exclusions**, the panel must hold a formal hearing within 15 school days, whether or not the parent(s) make representations.

The review panel may confirm the exclusion or direct reinstatement of the pupil. There is no legal option to impose a lesser sanction, i.e. to commute a permanent exclusion to a fixed-term one.

The review panel may direct reinstatement for any pupils excluded for a fixed-term period of more than five days **or** pupils who would miss a public exam, **or** pupils who have been permanently excluded.

If the pupil is to be reinstated, a reintegration programme should be planned with the school.

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

The decision should then be included in the pupil's record.

After the governor review hearing, the clerk will inform the parties in writing about the result, with reasons for the decision.

Decisions must be communicated as soon as possible and every attempt should be made to do this within 5 working days.

Principles of Natural Justice

- All factual determinations are based on a balance of probabilities, both by headteachers and at any subsequent review. This means that the Headteacher/reviewing panel should accept that something happened if it is more likely that it happened than that it did not happen.

In making their decisions to exclude, Headteachers must ensure that their decisions are fair, based on the facts of the incident and do not include any elements of discrimination.

- Members of the panel should be impartial, unprejudiced, have taken no previous part in the specific case, and have no personal or school interest in its result. Headteachers must not discuss individual exclusions with members of their local governing board as cases may be referred to the local governing board for review.

- Parent(s) should be informed of the case put forward by the school and have an opportunity to challenge it.

- Both parties should be allowed to present their case without unreasonable interruption. Aggressive, repetitive or unnecessarily over-long presentations hinder the effectiveness of the review process and the Chair will retain discretion to curtail any such presentation.

- Parent(s) should be able to bring a friend or adviser with them. An effective meeting, however, will not be able to accommodate large groups of people and the Chair retains ultimate discretion as to the attendance of invited parties beyond a reasonable number.

- All documents to be used in evidence should be distributed to all parties at least five working days before the hearing. If new material is introduced at the hearing, all parties must have time to consider it. Should such material be extensive, the Chair has the discretion to adjourn the meeting to allow proper review.

- No party to the hearing should be in the presence of the panel unless the other party is also present. Every party should feel that they have had a full opportunity to present their case and have it duly considered.

- Panel members should be effectively trained/briefed to ensure that they are aware of their legal and procedural roles and responsibilities

Independent Review Panel

If a permanent exclusion is upheld, parent(s) must be told of their right to seek an independent review of the decision reached by governors and the deadline for seeking such a review.

Parents also have the right to request the attendance of a SEN expert at the Independent Review Panel meeting.

Decision letters sent by schools to the parent(s) must include these details of the right of independent review.

The parent(s) have 15 school days (from the date of receipt of the review panel's decision) to seek an independent review.

Within 15 school days of such a request, the school will engage the services of an external clerking agency to arrange and clerk the Independent Review Panel.

The independent review is normally attended by the Headteacher, lead school staff member on the case, and Chair of the original review panel.

The clerk of the original panel may attend but plays no formal part in proceedings.

Where the parent(s) has legal representation or it is considered appropriate on behalf of the school, it may be agreed that the school should also have legal representation. This will be arranged by Plymouth CAST.

The Independent Review Panel cannot direct a governing body to re-instate a pupil. It may:

a) uphold the exclusion;

b) recommend that the original panel reconsider its decision; or

c) quash the original panel's decision and direct the panel to reconsider its decision. In such a case, the Independent Review Panel will then be expected to order that the school must make an additional payment of £4,000 if it does not offer to reinstate the pupil.

Parallel police proceedings

The governing body has no power to delay a hearing beyond the statutory time limit because of police proceedings.

If a permanent exclusion is upheld in these circumstances, the parent has 15 days to request independent review in the normal way.

Principle Documentation

Exclusion from maintained schools, academies and pupil referral units in England

Changes to the school suspension and permanent exclusion process during the coronavirus (COVID-19) outbreak

School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012

The Education (Provision of Full-Time Education for Excluded Pupils) (England) (Amendment) Regulations 2014

The School Discipline (England) (Coronavirus) (Pupil Exclusions and Reviews) (Amendment) Regulations 2020