



THE
RUSSETT
LEARNING
TRUST

Challenge for Achievement

18

The Russett Learning Trust Exclusion Policy

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This is a *statutory* policy and it will be reviewed/amended Spring 2021

Document Control

There is one controlled copy of this document on Trust Governor.

Working in Partnership with



THE RUSSETT SCHOOL

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Footnote: Head of Academy refers to: Head Teacher/Principle/Head

1. Aims

Our Trust/Academies aims to ensure that:

- The exclusions process is applied fairly and consistently
- The exclusions process is understood by governors, staff, parents and pupils
- Pupils in our Academies are safe and happy
- Pupils do not become NEET (not in education, employment or training)

2. Legislation and statutory guidance

This policy is based on statutory guidance from the Department for Education: Exclusion from maintained schools, academies and pupil referral units (PRUs) in England (2017)

It is based on the following legislation, which outline schools' powers to exclude pupils:

- Section 51A of the Education Act 2002
- The School Discipline (Pupil exclusions and Reviews) (England) Regulations 2012

In addition, the policy is based on:

- Part 7, chapter 2 of the Education and Inspections Act 2006, which looks at parental responsibility for excluded pupils
- Section 579 of the Education Act 1996, which defines 'school day'
- 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
- SEND Code of Practice January 2015

This policy complies with our funding agreement and articles of association.

3. The decision to exclude

Only the Head of Academy, can exclude a pupil. A permanent exclusion will be taken as a last resort.

A decision to exclude a pupil will be taken only:

- In response to serious or persistent breaches of the Trust/Academy's behaviour policy, **and**
- If allowing the pupil to remain in the Academy would seriously harm the education or welfare of others

Before deciding whether to exclude a pupil, either permanently or for a fixed period, Only the Head of Academy, will:

- Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked
- Allow the pupil to give their version of events
- Consider the individual pupil/student has special educational needs (SEN), taking into account of the pupil/student special educational need and potential impact of this on their behaviour.
- When establishing the facts in relation to the exclusion apply the civil standard of proof i.e. 'on the balance of probabilities' it is more likely than not that a fact is true.

4. Definition

For the purposes of exclusions, academy day is defined as any day on which there is a school session. Therefore, INSET or staff training days do not count as an academy day.

5. Roles and responsibilities

5.1 The Head of Academy on the Executive Head Teacher's authority will

Inform parents

Immediately provide the following information, in writing, to the parents/carer of an excluded pupil:

- The reason(s) for the exclusion
- The length of a fixed-term exclusion or, for a permanent exclusion, the fact that it is permanent
- Information about parents' right to make representations about the exclusion to the local governing committee and how the pupil may be involved in this
- How any representations should be made
- Where there is a legal requirement for the local governing committee to meet to consider the exclusion of a pupil, that parents have a right to attend this meeting, be represented at this meeting (at their own expense) and to bring a friend

The Head of Academy will also notify parents/carers by the end of the afternoon session on the day their child is excluded that for the first 5 academy days of an exclusion, or until the start date of any alternative provision where this is earlier, parents are legally required to ensure that their child is not present in a public place during academy hours without a good reason. Parents/carers may be given a fixed penalty notice or prosecuted if they fail to do this.

If alternative provision is being arranged, the following information will be included when notifying parents/carers of an exclusion:

- The start date for any provision of full-time education that has been arranged
- The start and finish times of any such provision, including the times for morning and afternoon sessions, where relevant
- The address at which the provision will take place
- Any information required by the pupil to identify the person they should report to on the first day

Where this information on alternative provision is not reasonably ascertainable by the end of the afternoon session, it may be provided in a subsequent notice, but it will be provided no later than 48 hours before the provision is due to start. The only exception to this is where alternative provision is to be provided before the sixth day of an exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent.

Informing the Local Governing Committee and Local Authority

The Executive Head Teacher/Head of Academy will immediately notify the local governing committee and the local authority (LA) of:

- A permanent exclusion, including when a fixed-period exclusion followed by a decision to permanently exclude the pupil
- Exclusions which would result in the pupil being excluded for more than 5 academy days (or more than 10 lunchtimes) in a term
- Exclusions which would result in the pupil missing a public examination or national curriculum test

For a permanent exclusion, if the pupil lives outside the LA in which the academy is located, the Executive Head Teacher/Head of Academy will also immediately inform the pupil's 'home authority' of the exclusion and the reason(s) for it without delay.

For all other exclusions, the Executive Head Teacher/Head of Academy will notify the local governing committee and LA once a term.

5.2 The local governing committee

Responsibilities regarding exclusions is delegated to the Discipline Committee/Panel of the Local Governing Committee

The Discipline Committee/Panel has a duty to consider the reinstatement of an excluded pupil (see section 6).

5.3 The LA

For permanent exclusions, the LA is responsible for arranging suitable full-time education to begin no later than the sixth day of the exclusion.

6. Considering the reinstatement of a pupil

The Local Governing Committee/Discipline Committee/Panel will consider the reinstatement of an excluded pupil within 15 school days of receiving the notice of the exclusion if:

- The exclusion is permanent
- It is a fixed-term exclusion which would bring the pupil's total number of academy days of exclusion to more than 15 in a term
- It would result in a pupil missing a public examination or national curriculum test

If requested to do so by parents, the local governing committee (LGC)/Discipline Committee/Panel will consider the reinstatement of an excluded pupil within 50 academy days of receiving notice of the exclusion if the pupil would be excluded from the academy for more than 5 academy days, but less than 15, in a single term.

Where an exclusion would result in a pupil missing a public examination, or national curriculum test the LGC/Discipline Committee/Panel will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the LGC/Discipline Committee/Panel will consider the exclusion and decide whether or not to reinstate the pupil.

The local governing committee can either:

- Decline to reinstate the pupil, or
- Direct the reinstatement of the pupil immediately, or on a particular date

In reaching a decision, the LGC/Discipline Committee/Panel will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the Executive Head Teacher/Head of Academy 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.

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

The LGC/Discipline Committee/Panel will notify, in writing, the Head of Academy, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the LGC/Discipline Committee/Panel's decision will also include the following:

- The fact that it is permanent
- Notice of parents' right to ask for the decision to be reviewed by an independent review panel, and:
 - The date by which an application for an independent review must be made
 - The name and address to whom an application for a review (and any written evidence) should be submitted
 - That any application should set out the grounds on which it is being made and that, where appropriate, reference to how the pupil's SEN are considered to be relevant to the exclusion
 - That, regardless of whether the excluded pupil has recognised SEN, parents have a right to require the LA/academy trust to appoint an SEN expert to advise the review panel
 - Details of the role of the SEN expert and that there would be no cost to parents for this appointment
 - That parents must make clear if they wish for an SEN expert to be appointed in any application for a review
 - That parents may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents may also bring a friend to the review
- That if parents believe that the exclusion has occurred as a result of discrimination, they may also make a claim under the Equality Act 2010 to the First-tier Tribunal (Special Educational Needs and Disability), in the case of disability discrimination, or the County Court, in the case of other forms of discrimination. A claim of discrimination made under these routes should be lodged within 6 months of the date on which the discrimination is alleged to have taken place

7. An independent review

If parents apply for an independent review, the academy trust will arrange for an independent panel to review the decision of the local governing committee not to reinstate a permanently excluded pupil.

Applications for an independent review must be made within 15 academy days of notice being given to the parents by the LGC/Discipline Committee/Panel of its decision to not reinstate a pupil.

A panel of 3 or 5 members will be constituted with representatives from each of the categories below. Where a 5-member panel is constituted, 2 members will come from the LGC category and 2 members will come from the Head Teacher category.

- A lay member to chair the panel who has not worked in any academy in a paid capacity, disregarding any experience as a governor or volunteer
- Governors who have served as a governor for at least 12 consecutive months in the last 5 years, provided they have not been teachers or Head Teachers during this time
- Principals / Head Teachers or individuals who have been a Head Teacher within the last 5 years

A person may not serve as a member of a review panel if they:

- Are a member/director of the LA/academy trust, or local governing committee of the excluding academy.

- Are the Executive Head Teacher/Head Teacher/Head of Academy of the excluding academy, or have held this position in the last 5 years
- Are an employee of the academy trust, or the LGC, of the excluding academy (unless they are employed as a Head Teacher at another academy/school.
- Have, or at any time have had, any connection with the academy trust, academy/school, LGC, parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartially
- Have not had the required training within the last 2 years (see appendix 1 for what training must cover)

A clerk will be appointed to the panel.

The independent panel will decide one of the following:

- Uphold the LGC/panel's decision
- Recommend that the LGC/panel reconsiders reinstatement
- Quash the LGC/Panel decision and direct that they reconsider reinstatement (only when the decision is judged to be flawed)

The panel's decision can be decided by a majority vote. In the case of a tied decision, the chair has the casting vote.

8. Academy registers

A pupil's name will be removed from the academy's admissions register if:

- 15 academy days have passed since the parents were notified of the exclusion panel's decision to not reinstate the pupil and no application has been made for an independent review panel, or
- The parents have stated in writing that they will not be applying for an independent review panel

Where an application for an independent review has been made, the LGC will wait until that review has concluded including any reconsideration by the LGC before removing a pupil's name from the register.

The Executive Head Teacher/Head of Academy will inform and discuss with the Local Authority SEN team.

Where alternative provision has been made for an excluded pupil and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.

Where excluded pupils are not attending alternative provision, code E (absent) will be used.

9. Returning from a fixed-term exclusion

Following a fixed-term exclusion, a re-integration meeting will be held involving the pupil, parents, a member of senior staff and other staff, where appropriate.

The following measures may be implemented when a pupil returns from a fixed-term exclusion:

- Agree a behaviour plan
- Agree strategies
- Agree standards of expected behaviour

10. Monitoring arrangements

The Trust/Executive Head Teacher monitors the number of exclusions every term and reports back to the LGC/Trust Board. They also liaise with the local authority to ensure suitable full-time education for excluded pupils.

11. Links with other policies

This exclusions policy is linked to the academy:

- Behaviour Support policy
- SEN Information Report

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Appendix 1: independent review panel training

The LA/academy trust must ensure that all members of an independent review panel and clerks have received training within the 2 years prior to the date of the review.

Training must have covered:

- The requirements of the primary legislation, regulations and statutory guidance governing exclusions, which would include an understanding of how the principles applicable in an application for judicial review relate to the panel's decision making
- The need for the panel to observe procedural fairness and the rules of natural justice
- The role of the chair and the clerk of a review panel
- The duties of head teachers, governors and the panel under the Equality Act 2010
- The effect of section 6 of the Human Rights Act 1998 (acts of public authorities unlawful if not compatible with certain human rights) and the need to act in a manner compatible with human rights protected by that Act

Approved February ↙