



**Walthamstow Academy**

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Part of United Learning

## Exclusions

<b>Adopted by:</b>	Walthamstow Academy	
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<b>Signed off by:</b>	Emma Skae	Geoff Skewes
<b>Role:</b>	Principal	Chair of Governors
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## Principles

- This policy should be read in conjunction with:  
[Walthamstow Academy behaviour policy](#).  
Walthamstow Academy SEN Policy  
Walthamstow Academy Equal Opportunities Statement
- To ensure good order and behaviour for learning it may be necessary to exclude students from the premises for a fixed term or permanently.
- Walthamstow Academy will issue fixed term or permanent exclusions as an ultimate sanction. Exclusions will only be used where all other sanctions are deemed to be entirely unsuitable or where they have been issued over a period of time and have been shown to have no effect on a student's behaviour.
- The decision to exclude is the Principal's alone or in the Principle's absence, the member of staff with delegated authority.
- Any decision to exclude a student will be lawful, reasonable and fair.
- The academy will seek to avoid excluding its students. In particular by providing alternative sanctions wherever that is possible and by proactively considering whether disruptive behaviour is a sign of unmet needs that the academy might be able to assist with using alternative strategies.

## Legislation and Guidance

In applying this policy, the academy will adhere to current legislation, including the Equalities Act 2010. The academy is obliged to have regard to the [Department for Education \(DfE\) guidance on exclusions](#). Section 1 makes specific reference to the Equalities Act. These duties need to be complied with when deciding whether to exclude a student. It is also our duty to ensure that their policies and practices do not discriminate against students by unfairly increasing their risk of exclusion. Provisions within the Equality Act allow schools to take positive action to deal with particular disadvantages, needs, protected characteristics or low participation affecting one group, where this can be shown to be a proportionate way of dealing with such issues. At Walthamstow Academy, the Special Educational Needs Coordinator (SENCO) is in charge of coordinating such positive action as part of our programme of reasonable adjustments.

Walthamstow Academy will comply with our statutory duties in relation to Special Educational Needs and Disabilities (SEND) when administering the exclusion process. This includes having regard to the [SEND Code of Practice](#).

The exclusion policy relates to behaviour not only in the academy but also to behaviour out of the academy: for example travelling to and from the academy; on academy trips; work experience placement etc. A fuller description of our power to discipline beyond the academy gates is provided in our [behaviour policy](#).

Where applicable, the process of exclusion from the academy and criminal proceedings can, and should, run parallel. However, in certain circumstances it may be appropriate for a decision to permanently exclude to be postponed if a police investigation has not been concluded. In such circumstances, an extended fixed term exclusion should be used. It is also critical that the academy does not undermine the evidence gathering in a parallel police investigation: the academy will consult with police before carrying out our own investigation.

## Types of Exclusion

### FIXED TERM EXCLUSION

A fixed term exclusion will be given for a single occurrence of serious misconduct or for persistent misbehaviour. The list below sets out examples of instance where a fixed term exclusion may be used. The list is taken from our [behaviour policy](#). It is not intended to be exhaustive and we will apply a 'best fit' approach when dealing with behaviour not listed below.

- Aggressive / insulting / threatening words or actions towards a member of staff.
- Persistent / sustained defiance of instructions given by members of staff
- Serious physical violence
- Repeated and serious disruption to lessons
- Failure to meet the expectations of behaviour whilst in the Protected Learning Room (PLR)

The student must remain at home up to the first 5 days (during which time the academy will take reasonable steps to set and mark work for the pupil). For a fixed term exclusion of more than 5 days, full time education provision commences from the 6th day and will be organised by the academy. A student may not be excluded for more than 45 days in a school year. A student is entitled to return to the academy once the period of exclusion has ended. Lunchtime exclusion is equivalent to a half day exclusion.

Where there is repeated use of fixed-term exclusion for children with an Education Healthcare Plan (EHCP) (and potentially those on SEND Support (especially those undergoing statutory assessment and likely to get an EHCP)) the SENCO will be involved. The SENCO will lead a behaviour intervention and planning process to elicit different approaches to improving the student's behaviour. This may involve advice from colleagues / specialists such as an educational psychologist, speech and language therapy, literacy specialist or other similar forms of support.

### PERMANENT EXCLUSION

Permanent exclusion will normally be used as a last resort in response to serious or persistent breaches of the academy's behaviour policy. It may, however, be an appropriate sanction for a single incident of extreme misconduct.

The decision will only be taken if:

- a. the student has committed a serious breach or persistent breaches of the academy's behaviour policy; and
- b. allowing him/her to remain in the academy seriously harms the learning or welfare of the student or others in the academy;

Below are some examples where permanent exclusion may apply to a one-off offence. It is not intended to be exhaustive and we will apply a 'best fit' approach when dealing with behaviour not listed below

- a serious breach of safety requirements likely to endanger other people or yourself;
- use or possession of or supply of alcohol or illegal drugs within the academy premises or during academy organised activities;
- stealing from the academy, employees of the academy, or from other students;
- intentional damage to property;
- very serious / extreme abuse of the academy's computer system and of the internet;
- sexual misconduct, abuse or assault;
- serious actual or threatened violence or physical assault against another student, member of staff or worker in the academy;
- carrying an offensive weapon (defined as any item made or adapted for causing injury);
- very significant / extreme bullying and/or harassment including racial, sexual or homophobic harassment;
- extreme defiance of the properly exercised authority of the academy and its staff;

## The Investigation

Any investigation will be conducted in accordance with DfE guidance so as to be fair. To be thorough: witnesses will be questioned and statements taken; the accused will be given the opportunity to have his/her say.

Each case will be judged on the facts and the context taking into account:

- The degree of severity of the offence;
- The likelihood of re-occurrence;
- The student's previous behavioural record;
- Contributory factors (e.g. recent bereavement, mental health issues, bullying, special educational needs and disabilities, harassment);
- Support provided;
- Take into account the academy behaviour policy, special educational needs and disabilities policy and equality law obligations.

## Principal's Decision

The decision to exclude will be made after a review of the evidence available following the investigation and will be on the balance of probabilities - i.e. is it more probable than not that the accused acted as alleged – and in response to a serious or persistent breaches of the academy's

behaviour policy and where allowing the student to remain in the academy would seriously harm the education or welfare of the student or others in the academy.

On considering a permanent exclusion, the Principal will immediately contact the relevant United Learning Regional Director for Walthamstow Academy before making their decision. Where that is not possible (e.g. the director is occupied with an Ofsted inspection), the Principal should issue the permanent exclusion which can be rescinded if necessary (but only before the Governors review it). Consequently the Principal should not issue a fixed-term exclusion whilst waiting to speak to their Director if their view is that a permanent exclusion is the appropriate course of action. A fixed term exclusion cannot be turned or “converted” into a permanent exclusion except in exceptional cases, usually where further evidence has come to light, where a permanent exclusion can be issued to begin immediately after the end of the fixed period.

## Notification

Once a decision to exclude has been made, parents/carers will be contacted at the earliest possible opportunity, by telephone if possible. The exclusion will be confirmed (without delay) by a letter signed by the Principal, or teacher with designated authority. The letter must address: the reason for exclusion, the obligations this places on both the student and the parent, the right to appeal if relevant and the date of any reintegration if the exclusion is fixed-term.

## Role of the Local Governing Body (LGB)

The United Learning Trust Charity Board has delegated powers to the LGB to review exclusions and the LGB must consider any representations about an exclusion made by the parents of the excluded pupil. The LGB can delegate some or all of its functions in respect of exclusions to a behaviour committee consisting of at least three governors, who are independent and have had no direct involvement with the case.

The behaviour committee’s role is to review exclusions, either on parental/carer request or because required to do so by law and the following different requirements apply to different types of exclusion.

- In the case of a fixed-period exclusion which does not bring the student's total number of school days of exclusion to more than five in a term, the behaviour committee must consider any representations made by parents, but it cannot direct reinstatement and is not required to arrange a meeting with parents/carers.
- If the student is excluded for more than five but less than 15 school days in the term, and only if the parents make representations, the behaviour committee must consider within 50 school days of receiving the notice of exclusion whether the excluded student should be reinstated.

- The behaviour committee must (whether the parent requests it or not) consider the reinstatement of an excluded pupil within 15 school days of receiving notification of the exclusion if:
  - The exclusion is permanent; or
  - It is a fixed-term exclusion which would bring the pupil's total number of school days of exclusion to more than 15 in a term; or
  - It would result in a student missing a public examination or national curriculum test.

A checklist for the behaviour committees is available from United Learning this will be used when making the final decision for every permanent exclusion.

The behaviour committee can only uphold or overturn the exclusion imposed by the Principal. It cannot extend a fixed term exclusion nor substitute it with a permanent exclusion.

In the case of a permanent exclusion where the behaviour committee decides not to reinstate the pupil, the behaviour committee's notification must also include the information below.

- 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 following information:
  - a) the date by which an application for a review must be made (i.e. 15 school days from the date on which notice in writing of the governing board's decision is given to parents);
  - b) where and to whom an application for a review (and any written evidence) should be submitted;
  - c) that any application should set out the grounds on which it is being made and that, where appropriate, this should include a reference to how the pupil's SEND are considered to be relevant to the exclusion;
  - d) that, regardless of whether the excluded student has recognised SEND, parents/carers have a right to require the local authority/academy trust to appoint an SEND expert to advise the review panel;
  - e) details of the role of the SEN expert; and f) that parents/carers may, at their own expense, appoint someone to make written and/or oral representations to the panel.

The behaviour committee must inform the parent/carer, Principal and the Local Authority of their decision, in writing without delay, preferably within one school day of the meeting, stating their reasons. Where the student resides outside Waltham Forest, the academy must also inform the student's 'home' authority.

A note of the behaviour committee's views on the exclusion should be placed on the student's school record with copies of relevant papers.

If the behaviour committee directs reinstatement, this should take place as soon as possible. No conditions can be attached to any direction to reinstate the pupil save that the Committee can direct reinstatement on a particular date.

## Additional Requirements for Permanent Exclusion

The academy will take responsibility for setting up and training an independent review panel, this training will be given by members of academy staff not directly involved in the exclusion case. The requirements for panel membership are very specific and extensive, and must meet strict timelines. The independent review panel is only involved in reviewing permanent exclusions (not fixed-term). The panel will only become involved if requested by the parent/carer of the excluded student, and/or the student themselves if they are over 18.

### 1. NOTIFYING PARENTS/CARERS

When a permanent exclusion is upheld by the behaviour committee, the committee's decision letter to the parent/carer must state the reasons for the decision, give the last day for lodging a review (within 15 further school days ) and explain that the grounds for the review should be set out in writing. If a parent/carer does not request a review within the timescales the behaviour committee must reject the application.

### 2. THE TIMING OF THE HEARING

An independent review panel must meet to consider an exclusion no later than the 15th school day after the day on which the review was requested. However, only if strictly necessary, the panel may then decide to adjourn the hearing to a later date.

### 3. COMPOSITION OF INDEPENDENT REVIEW PANELS

Review panels must consist of 3 or 5 members.

A five member panel must be constituted with two members from each of the categories of school/academy governors and head teachers.

- A lay member to chair the panel who has not worked in any school in a paid capacity, disregarding any experience as a school governor or volunteer.
- School governors who have served as a governor for at least 12 consecutive months in the last five years, provided they have not been teachers or head teachers during this time.
- Head teachers or individuals who have been a head teacher within the last five years.

All panel members, including the clerk, must have received training within the two years prior to the date of the review. The [DFE statutory guidance](#) details what this training must have covered (page 33).

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



They are a member / director of the local authority / Academy Trust or governing body of the excluding school,

- are the head teacher of the excluding school or anyone who has held this position in the last five years,
- are an employee of the local authority / Academy Trust, or the governing body, of the excluding school (unless they are employed as a head teacher at another school),
- have, or at any time have had, any connection with the local authority / Academy Trust; school; parents or student; or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality (though an individual must not be taken to have such a connection simply because they are a head teacher at another school) or
- have not had the required training within the last two years (see paragraph 116 of Exclusion from maintained schools, Academies and pupil referral units in England guidance)

#### 4. REQUEST FOR AN SEND EXPERT

If requested by the parents/carers, the person convening the panel must appoint a SEND Expert to attend the independent review panel. Parents/carers have a right to the above, regardless of whether their child has recognised or identified SEN. ([see section 8.5 of Exclusion from maintained schools, Academies and pupil referral units in England guidance](#)).

## Independent Review Panel Procedure

The set up and process of the IRP is set out in the [DfE guidance](#) (section 8). This document details the statutory guidance relating to the composition of the panel and the procedure it must follow when it meets

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

### 1. REACHING A DECISION

Information on what the panel should consider when coming to their decision can be found in section 9 of the [DFE Guidance on Exclusions](#) paragraphs 136 and 137.

### 2. THE DECISION

An independent review panel can decide to:

- uphold the behaviour committee's decision;
- recommend that the behaviour committee reconsiders reinstatement; or
- quash the decision and direct that the behaviour committee reconsiders reinstatement.

The panel's decision can be decided by a majority vote. The panel can request that a copy of the decision letter is placed on the student's record and the academy must comply with this request.

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

### 3. FINANCIAL PENALTIES

Where an independent review panel directs the behaviour committee to reconsider its decision it has the power to order that a readjustment of the academy budget be made if the behaviour committee 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 students.

### 4. AFTER THE INDEPENDENT REVIEW PANEL

The independent review panel is independent. Its decision is binding on the parent, the behaviour committee and the Principal. The panel cannot revisit its decision once made.

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

If the panel upholds the permanent exclusion, the Clerk should immediately report this to the Local Authority. If the student lives outside the area of the Local Authority, the Clerk should make sure that the home authority is also informed immediately of the position. If the student is of compulsory school age, it is for the Local Authority in whose area the student lives to make arrangements as quickly as possible for the student to continue in suitable full-time education.

Where the exclusion is upheld the Clerk should also advise the parent/carer to contact the appropriate person at the home Local Authority about arrangements for their student's continuing education. The Principal should remove the student's name from the academy roll the day after the conclusion of the independent review panel.

### 5. RECONVENING A BEHAVIOUR COMMITTEE

If the independent review panel directs or recommends that the behaviour reconsider the exclusion, the behaviour committee must meet to reconsider within 10 school days of notification. The [DfE Exclusion Guidance \(section 10\)](#) gives specific advice as to what the further meeting of the behaviour committee should involve and the requirement that the behaviour committee must have serious justification for continuing to support the exclusion. Where the behaviour committee has reconsidered an exclusion decision it must inform the excluded student, the Principal and the Local Authority of its reconsidered decision and the reasons for it without delay.

### 6. REMEDIES AFTER THE INDEPENDENT REVIEW PANEL

A parent/carer can complain to the Secretary of State via the Education and Skills Funding Agency at the Department for Education.

The decisions of both the behaviour committee and the independent review panels can be subject to judicial review. If this occurs, immediate legal advice must be sought.

## 7. CLAIMS OF DISCRIMINATION IN RELATION TO EXCLUSION

Parents/carers 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.