

## EXCLUSIONS POLICY

The policy has been updated to reflect the guidance introduced by the DfE in 2012. Independent Appeal Panels no longer exist and have been replaced by Independent Review Panels (IRPs). There is no longer a right for IRPs to reinstate a pupil, but if the decision of governors to uphold a permanent exclusion is quashed by the IRP and the pupil is not reinstated by governors there is a financial penalty.

There is new emphasis in the guidance on the principles of natural justice and the lack of discrimination in exclusion decisions.

<b>Date of last review:</b>	July 2013	<b>Review period:</b>	2 years
<b>Date of next review:</b>	August 2017*	<b>Owner:</b>	Head of Governance
<b>Type of policy:</b>	Network	<b>Approval:</b>	Director of Operations
<i>*The exclusion policy has been rolled-over pending changes in national guidance from the Department for Education.</i>			

## Exclusions Policy

### 1. The Law

Head teachers, Governing bodies and Independent Review Panels must have regard to the guidance issued by the Secretary of State. The latest guidance was issued in 2012. 'Exclusion from maintained schools, Academies and pupil referral units in England – a guide for those with legal responsibilities in relation to exclusion'

#### 1.1 Fixed term and permanent exclusions

There are two types of exclusion: fixed term and permanent.

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

Permanent exclusions and any fixed term exclusions which result in the pupil being excluded for more than 15 school days (singly or cumulatively) in a term must be reported **immediately** to ARK Schools who will inform governors and arrange the required governors review meetings.

Any exclusion that would mean the pupil missing a public exam must also be **immediately** reported to ARK Schools who will inform governors and arrange the required governors review meetings.

All other exclusions must be recorded on the MIS in a timely manner and reported to governors in the Principal's Report.

#### 1.2 The Principal's role in exclusions

Only the Principal or acting Principal (or Head teacher) may exclude a pupil.

The parent(s) /carers must be **immediately** informed 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.). ARK has standard letters for notifying parents of exclusions and an explanatory note to go with each letter which explains the rights of representation.

The duty of care placed on schools to ensure the welfare of pupils suggests the importance of advising parents/carers by direct communication that a child has been excluded prior to the child being sent off site.

Exclusion can only be for a breach of an academy's behaviour policy (which it must be demonstrated has been widely published to all pupils and parents) Care must be taken to avoid an 'illegal'/unofficial exclusion e.g. sending a child off site for a 'cooling down' period or because of the behaviour of its parents.

Permanent exclusion is a last resort action where all strategies to change behaviour have failed. It must be demonstrated that to exclude a pupil is also in the interests of the welfare of the excluded pupil and that of others attending the academy. Permanent exclusion may be for persistent poor behaviour or for a 'one off' serious breach of the behaviour policy.

Where an excluded pupil has a Statement of Special educational needs or is on the SEN register, it must be demonstrated that the academy has provided extensive support to help the pupil and there should be PSBs or IEPs in place which have been discussed with the pupil and parents.

Principals should ensure that the behaviour policy of the academy is reviewed on an annual basis and agreed/noted by the governing body.

### 1.3 The governing body's role

The governing body **must** review (irrespective of a parent's wish) the decision of the Principal in the case of all permanent exclusions and fixed term exclusions amounting to over 15 days in any one term (this can be cumulative as well as single fixed term exclusion). The quorum is three governors, with a clerk appointed by ARK Schools. Governors appointed will constitute the Governors' Discipline Committee ("the GDC"). The Principal cannot be a member of the GDC. 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 ARK schools are advised **without delay** and the principal makes arrangements for paperwork to be prepared immediately. Model statements by Principal's for governor review meetings are available from ARK schools.

- 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 can agree to set up a meeting with the parent(s) if they make representations about one of these exclusions but does not have to do so, though it must consider any representations made by the parent.
- If an exclusion means that a pupil will **miss a public exam**, the GDC should try to meet before the date of the exam. If this is not practicable, the chair of governors can use the emergency powers for chair's action to review the exclusion.
- For fixed term exclusions of **6 to 15 school days**, the GDC must meet to consider any representations from the parent if received.
- For fixed term exclusions of **more than 15 days** in one term or which cumulatively add up to more than 15 days, and for **permanent exclusions**, the GDC must hold a formal hearing within 15 school days, whether or not the parent(s) make representations.

The GDC 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 GDC can direct that any pupils excluded for a fixed term of more than five days **or** pupils who would miss a public exam **or** permanently excluded pupil are reinstated.

If the pupil is to be reinstated, a re-integration 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 GDC must consider the representations made by the school and parent(s), and decide whether or not the exclusion was justified. The decision should be included in the pupil's record.

After the governor review hearing, the clerk informs the parties in writing about the result, with reasons for the decision. Decisions are communicated as soon as possible and every attempt is made to do this within 3 to 5 working days.

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 a review. They also have the right to have a SEN expert attend the independent review panel meeting (IRP). When ARK Schools writes to the parent(s) communicating the decision reached by governors details of the right of independent review are also given. The parent(s)/carers have 15 school days (from the date when notified of the GDC decision) to seek an IRP meeting.

#### **1.4 Principles of natural justice**

- All decisions to exclude are based on a balance of probabilities – both by Principals and at any subsequent review. In making their decisions to exclude Principals must ensure that their decisions are fair and based on the facts of the incident and do not include any elements of discrimination. Where a GDC reviews a decision to exclude, the latter issue will be tested.
- Members of the GDC should be impartial, unprejudiced, have taken no previous part in the case, and have no personal or school interest in its result. Principals should not discuss individual exclusions with members of their governing body as cases may be referred to the GDC 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.
- Parent(s) should be able to bring a friend or adviser with them.
- 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.
- No party to the hearing should be in the presence of the GDC unless the other party is also present. Everyone should feel that they have had a chance to put their case and have been listened to.

#### **1.5 Independent reviews**

ARK Schools is responsible for managing independent reviews against permanent exclusion and external agencies are used for this purpose.

The review must be heard within 15 school days from the date when the parent(s)/carers appeal. The independent review is normally attended by the Principal, lead academy staff member on the case, chair of the relevant GDC. The clerk may attend but plays no formal part in proceedings. Where the parent/carer has legal representation or it is considered appropriate on behalf of the academy, it may be agreed that the academy should also have legal representation. This will be arranged by ARK Schools.

IRPs cannot direct that a pupil is re-instated (as its predecessor could). IRPs powers are restricted to a) upholding the exclusion, b) recommending that the GDC reconsiders its decision and c) quashing the GDC decision and directing the GDC to reconsider its decision. If in the latter case, the GDC does not meet or maintains its original decision, there is a financial penalty.

## **1.6 Parallel police proceedings**

The GDC 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 appeal to the IRP in the normal way.

## **1.7 Required paperwork for GDC review meetings.**

Guidance on exclusions will be issued for Principals and LGB members in September 2013. This will concentrate on the standard of paperwork required for GDC review meetings and should be referred to by Principals or those members of staff delegated with responsibility for investigating breaches of behaviour policies.

It is necessary to state here that students should only be excluded for a breach of the academy behaviour policy. That the appropriate exclusion letter and advice note should be sent to parents and copied without delay to ARK Schools. There should be no delays in gathering evidence and witness statements because the academy and ARK Schools is under a legal obligation to meet statutory deadlines imposed for governor review meetings.

## **1.8 Other relevant legislation**

**The Education Act 2002 as amended, The School Discipline Regulations 2012, The Education and Inspection Act 2006, The Education Regulations 2007 (provision of full time education for excluded pupils) Sex Discrimination, Race Relations, Human Rights and Equality legislation. SEN guidance.**