

Title	Exclusions
Associated Policies	<ul style="list-style-type: none"> • Behaviour and Discipline (TPO/STU/03) • Equalities Policy (TPO/EO/01)

REVIEWED: SEPTEMBER 2019

NEXT REVIEW: SEPTEMBER 2022

1. Policy Statement

- 1.1** Brooke Weston Trust is committed to providing a safe, calm, orderly and positive environment for its students. Each Academy requires everyone to show respect, tolerance and understanding towards others. In this atmosphere, punishment and imposed discipline are irrelevant and the staff and students, through self-discipline and consideration, will behave in a sensitive and civilised fashion.
- 1.2** Where a student's behaviour fails to meet the requirements of the Academy's policy on Behaviour and Discipline and/or are involved in a criminal act, disciplinary procedures will be followed.
- 1.3** Brooke Weston Trust aims to ensure that:
- The exclusions process is applied fairly and consistently
 - The exclusions process is understood by staff, governors, parents and students
 - Students in school are safe and happy
 - Students do not become NEET (not in education, employment or training)
- 1.4** The decision to exclude a student lies with the Principal. A student may be excluded permanently or for one or more fixed periods up to a maximum of 45 school days in a single academic year.
- 1.5** The behaviour of students outside school can be considered as grounds for exclusion. This will be a matter of judgement for the Principal in accordance with the Academy's published behaviour policy.
- 1.6** The Principal is the only person empowered to exclude students. Where the Principal decides to permanently exclude a student or excludes for a period of more than 15 school days, that decision must be considered by the Governing Body at a Pupil Discipline Hearing within 15 school days. The Governing Body will either uphold the decision or direct the Principal to reinstate the student. Parents will be invited to attend and present their case to the Governing Body if they so wish. For fixed term exclusions of between 6 and 15 school days, a meeting of the Pupil Discipline Committee will only be held at the parent's request.
- 1.7** The Academy will advise the police of any criminal activity; this includes racist incidents that are categorised as crimes.

2. Who does this policy apply to?

- 2.1** This applies to all Academy students.

3. Who is responsible for carrying out this policy?

- 3.1** The Principal is responsible for the local implementation of this policy.
- 3.2** The implementation of this policy will be monitored by the Governors of the Academy and the Brooke Weston Trust.

4. What are the principles behind this policy?

- 4.1** The Academy is committed to treating its students fairly and with the same respect and consideration as adult members of the Academy.

- 4.2 The Academy will adopt a series of high expectations of behaviour based on individual responsibility and mutual respect in order to generate an environment where positive relationships are encouraged to flourish.
- 4.3 The Academy will usually seek to put in place a range of intervention strategies which minimise the need for fixed period exclusions or permanent exclusions. These may include being placed on report, internal exclusion, managed moves and the involvement of appropriate external agencies. In some circumstances, the Academy has the power to direct a student off-site for education to improve behaviour.
- 4.4 Decisions to exclude a student will only be taken in response to breaches in the Academy's policy on behaviour and discipline, including persistent and disruptive behaviour and for permanent exclusions where allowing the student to remain in the academy would seriously harm the education and/or welfare of that pupil or others in the school community. An exclusion may also be appropriate where a criminal act has been committed.
- 4.5 Prior to making the decision to exclude, the Principal will have due consideration to the statutory guidance for Principals (see paragraph 4.6) regarding the exclusion of students from groups with disproportionately high rates of exclusion and students with Education, Health and Care plans (EHC plans) and looked after children.
- 4.6 This policy is operated in accordance with the statutory DfE guidance, *Exclusion from maintained schools, academies and pupil referral units in England* (September 2017).

5. Procedures

The decision to exclude

- 5.1 Only the Principal may take the decision to exclude a student.
- 5.2 The decision to exclude a student will be taken only:
- In response to serious or persistent breaches of the school's behaviour policy; **and**
 - If allowing the student to remain in school would seriously harm the education or welfare of others
- 5.3 Before deciding whether to exclude a student, either permanently or for a fixed period, the headteacher will:
- Consider all of the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked
 - Allow the student to give their version of events
 - Consider if the student has special educational needs (SEN)

Notifying Parents

- 5.4 When the decision to exclude a student has been made the parent will be notified immediately by telephone and this will be confirmed in writing.
- 5.5 Written confirmation of the exclusion will include the following details:
- For a **fixed term** exclusion the precise period of the exclusion
 - For a **permanent** exclusion the fact that it is a permanent exclusion and the date from which the exclusion takes effect
 - The reasons for the exclusion, including any relevant previous history
 - The days and dates on which the parent is required to ensure that the student is not present in a public place during school hours. Parents may be given a fixed penalty notice or prosecuted if they fail to do this

- The parent's right to make representations regarding the exclusion to the Pupil Discipline Committee and how the student may be involved in this
- Where there is a legal requirement for the Governing Body to consider the exclusion, that parents have a right to attend the Pupil Discipline Hearing, be represented at this hearing (at their own expense) and to bring a friend
- The person in the Academy who the parent should contact if they wish to make representations
- The latest date when the Pupil Discipline Hearing must be held to consider the circumstances of the exclusion
- The arrangements that will be put in place to ensure that the student is able to continue their education during the first five days of the exclusion, including the setting and marking of work (it is the parent's responsibility to ensure that this is completed and returned to the Academy)
- The school days on which a student may be provided with alternative full time education or may be required to attend an alternative provision. This information may be given by separate notification but will be at least 48 hours before the education is to be provided
- If alternative provision is being arranged then the following information must be included with this notice where it can reasonably be found out within the timescale:
 - The start date for any provision of full-time education that has been arranged for the student during the exclusion
 - 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; and
 - Any information required by the student to identify the person he/she should report to on the first day
- For **fixed term** exclusions, the arrangements for reintegrating the student into the Academy will be provided including the date and time the student should return to the Academy. This may also require the parent to attend an interview with the Principal prior to reintegration.

Notifying Governors

- 5.6 The Principal will inform the Governing Body of all short **fixed term** exclusions once per term other than as set out in 5.5.
- 5.7 The Principal will inform the Chair of the Governing Body within one school day of all **permanent** exclusions or fixed term exclusions which would result in a student being excluded for more than 5 school days in a term or missing a public exam. This notification will include the following:
- The student's name
 - The length of the exclusion
 - The reason for the exclusion
 - The student's age, gender and ethnicity
 - If the student has a Statement of Special Educational needs or an EHC Plan
 - If the student is looked after (in care)

- For fixed term exclusions of more than five days, what alternative provision has been put in place

The responsibility of the governing body

- 5.8** For a fixed period exclusion of more than five school days, the Governing Body must arrange suitable full-time education for any student of compulsory school age. This provision must begin no later than the sixth day of the exclusion.
- 5.9** For permanent exclusions, the local authority must arrange suitable full-time education for the student to begin no later than the sixth day of the exclusion. This will be the student's 'home authority' in cases where the school is maintained by (or located within) a different local authority.
- 5.10** Provision does not have to be arranged by either the school or local authority for students in the final year of compulsory education who do not have any further public examinations to sit.

Considering the reinstatement of a student

- 5.11** The governing body has a duty to consider the reinstatement of an excluded student. Responsibilities regarding exclusions is delegated to the Pupil Discipline Committee, a committee of the governing body. The Pupil Discipline Committee is to be comprised of governing body members of the academy. Where this is not practicable, governors from other local governing bodies within the Trust may be co-opted onto the panel.
- 5.12** The Pupil Discipline Committee must arrange a Pupil Discipline Hearing to consider the reinstatement of an excluded student within 15 school days, where practicable, of receiving notice of the exclusion if:
- The exclusion is permanent
 - It is a fixed period exclusion which would bring the student'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.
- 5.13** If requested to do so by the parents, the Pupil Discipline Committee must consider the reinstatement of an excluded student within 50 school days of receiving notice of the exclusion, if a student would be excluded from school for more than five school days, but not more than fifteen, in a single term. In the absence of any representations from the parents, the Pupil Discipline Committee is not required to meet and cannot direct the reinstatement of the student.
- 5.14** Where an exclusion would result in a student missing a public examination, there is a further requirement for the Pupil Discipline Committee, so far as is reasonably practicable, to consider the exclusion before the date of the examination or test. If this is not practicable, the Chair of Governors of the Local Governing Body may consider the exclusion independently and decide whether or not to reinstate the student. These are the only circumstances in which the Chair can review an exclusion decision alone. In such cases, parents still have the right to make representations to the Pupil Discipline Committee and must be made aware of this right.
- 5.15** In the case of a fixed period exclusions which does not bring the student's total number of days of exclusion to more than 5 in a term, the Local Governing Body must consider any representations made by parents, but it cannot direct reinstatement and is not required to arrange a meeting with parents.
- 5.16** The Pupil Discipline Committee will invite the parents/carers to attend the Pupil Discipline Hearing. The Pupil Discipline Committee must make reasonable endeavours to arrange the meeting for a date and time that is convenient to all parties, but in compliance with the relevant statutory time limits set

out above (paragraph 5.9). However, its decision will not be invalid simply on the grounds that it was not made within these time limits.

- 5.17** Once the date is confirmed, the Pupil Discipline Committee will request written statements and will circulate these at least five days in advance of the meeting. The Pupil Discipline Committee will comply with all statutory guidance relating to preparing for the consideration of an exclusion, as detailed in the DfE guidance, *Exclusion from maintained schools, academies and pupil referral units in England* (September 2017).
- 5.18** The Pupil Discipline Committee must consider the interests and circumstances of the excluded student, including the circumstances in which the student was excluded, and have regard to the interests of other pupils and people working at the school.
- 5.19** The Pupil Discipline Committee must consider any representations made by or on behalf of:
- The Principal
 - The parents
- 5.20** In reaching a decision, the Pupil Discipline Committee will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the Principal 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.
- 5.21** The Pupil Discipline Committee may uphold the exclusion or direct the student’s reinstatement.
- 5.22** Where a permanent exclusion is upheld by the Governing Body, the parents must be notified in writing and without delay.¹ This notification must include the following:
- The reasons for the decision
 - Notice of the parent’s rights 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 Pupil Discipline Committee’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 SEN are considered to be relevant to the exclusion
 - d) that, regardless of whether the excluded pupil has recognised SEN, parents have a right to require the local authority/academy trust to appoint an SEN expert to advise the review panel
 - e) details of the role of the SEN expert; and
 - f) that parents may, at their own expense, appoint someone to make written and/or oral representations to the panel.
 - Relevant sources of free and impartial information that will allow parents to make an informed decision on whether and, if so, how to seek a review of the decision

¹ Notice is deemed to have been given on the same day if it is delivered or on the second working day after posting if it is sent by first class mail

- A link to the statutory DfE guidance, *Exclusion from maintained schools, academies and pupil referral units in England* (September 2017).
- A link to guidance on making a claim of discrimination to the First-tier Tribunal: <http://www.justice.gov.uk/tribunals/send/appeals> with advice that a claim of discrimination under the Equality Act 2010 made under these routes should be lodged within six months of the date on which the discrimination is alleged to have taken place (e.g. the day on which the student was excluded)
- A link to the Coram Children's Legal Centre: www.childrenslegalcentre.com 08088 020 008; and,
- Where considered relevant by the governing body, links to local services, such as Traveller Education Services or the local parent partnership (www.parentpartnership.org.uk).

5.23 The outcome of the review will be added to the student record in the Academy.

5.24 Whilst there is no automatic right for an excluded student to take an examination or test on the excluding school's premises, the Local Governing Body should consider whether it would be appropriate to exercise their discretion to allow an excluded student on the premises for the sole purpose of taking the examination or test.

An independent review

5.25 Where a permanent exclusion is upheld by the Governing Body parents have 15 school days from the day on which they are notified of this decision to make an application for an independent review panel. The Academy Trust must then arrange for an independent review board hearing to review the decision of a Governing Body not to reinstate a permanently excluded student.

5.26 Any application made outside of the legal time frame of 15 school days must be rejected by the Academy Trust.

5.27 Parents may request an independent review board even if they did not make a case to, or attend, the meeting at which the Governing Body considered the exclusion.

5.28 The Academy Trust must take reasonable steps to identify a date for the review that all parties are able to attend. However, the review must begin within 15 school days of the day on which the Academy Trust received the parent's application for a review.

5.29 Where the issues raised by two or more applications for review are the same, or connected, the panel may combine the reviews if, after consultation with all parties, there are no objections.

5.30 Where an appeal is received, the Academy will convene an independent review board which will comprise of three or five members, as decided by the Academy Trust, representing each of the three categories below. A five member panel must be constituted with two members from each of the categories of school 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

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

- A director of Brooke Weston Trust or governing body of the excluding school
- Are the Principal of the excluding school, or have held this position in the last 5 years

- Are an employee of Brooke Weston Trust or the governing body of the excluding school (unless they are employed as a Principal at another school)
 - Have, or at any time have had, any connection with Brooke Weston Trust, parents or students, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality
 - Have not had the required training within the last 2 years
- 5.32 Brooke Weston Trust will ensure that all panel members and clerks have received training within the two years prior to the date of the review, as detailed in the DfE statutory guidance (paragraph 124).
- 5.33 The conduct of the independent review will be in accordance with DfE statutory guidance (135-156). During the review, each party will be given the opportunity to put forward their case. The Governing Body may wish to call witnesses who were directly involved in the incident which led to the exclusion.
- 5.34 Parents have a right to request the attendance of a SEN expert at a review, regardless of whether the school recognises that their child has SEN. The panel will apply the DfE statutory guidance regarding the appointment of a SEN expert DfE statutory guidance, paragraphs 125-134).
- 5.35 The role of the review board is to review the Governing Body's decision not to reinstate a permanently excluded student. In reviewing the decision the board must consider the interests and circumstances of the excluded student, including the circumstances in which the student was excluded, and have regard to the interests of other students and people working at the school. Following its review, the board can decide to:
- Uphold the exclusion decision
 - Recommend that the Governing Body reconsiders their decision, or
 - Quash the decision and direct that the Governing Body considers the exclusion again where the review panel find that the original governing body decision was flawed when considered against principles applicable to judicial review.
- 5.36 The panel's decision does not have to be unanimous and can be decided by a majority vote. In the case of a tied vote, the chair has the casting vote. A decision will be made with consideration of the statutory guidance.
- 5.37 The review board is independent and the decision is binding on the parent, the Governing Body, the Principal and the Academy Trust.
- 5.38 The review board will inform all parties of the outcome without delay, giving reasons for the decision.
- 5.39 Where the board directs or recommends that the Governing Body reconsiders their decision, the Governing Body must reconvene to do so within 10 school days of being given notice of the board's decision. Notice is deemed to have been given on the same day if it is delivered directly or on the second working day after posting if it is sent by first class mail.
- 5.40 In the case of either a recommended or directed reconsideration, the Governing Body must notify the following people of their reconsidered decision, and the reasons for it, in writing and without delay:
- The parents
 - The Principal
 - The local authority and, where relevant, the 'home authority'

Attendance Registers

- 5.41 Where a student has been excluded for a **fixed term** of up to five days and no alternative provision is made, attendance registers should be marked using Code E. Where alternative provision has been made, Code B (education off site) or Code D (dual registration) should be used.

- 5.42 Where a student has been **permanently** excluded they should not be deleted from the register until after the appeal process has been completed. This will be extended to the completion of the independent review board hearing, if one is requested. The letter from the Local Governing Body must also make reference to the right for parents to request a SEN expert and the right to make separate discrimination claims as per the DfE exclusions guidance.

6. Policy Review

- 6.1 This policy will be monitored as part of the Academy's annual internal review and reviewed on a three year cycle or as required by changes in legislation.

A summary of the Governing Body’s duties to review the Principal’s exclusion decision

