



Carlton Academy Trust Exclusions policy

Ratified Date:

Sept 2020

Signed on behalf of the Trustees:

R Butterfield

Signed on behalf of the CEO:

A Kneeshaw

Review Date:

Sept 2021

Policy Statement, Aims and Scope

Carlton Academy Trust is committed to providing optimum learning opportunities for all its students and supporting this provision through all difficulties experienced by students. Good discipline in schools is essential to ensure that all pupils can benefit from the opportunities provided, and exclusion is used as a sanction to maintain this.

Any fixed-term or permanent exclusion is a significant decision that is made within clear policy parameters and statutory provisions as outlined in "Exclusion from maintained schools, academies and pupil referral units in England: Statutory guidance for those with legal responsibilities in relation to exclusion" September 2017.

This policy applies to all students.

Exclusion Guidelines

Legislation

Exclusions can only be made by the Head of School. This must be on disciplinary grounds, which includes behaviour out of school. Parents/carers must be informed of an exclusion and the reasons for it.

Decisions will be made in line with the principles of administrative law in following relevant legislation relating directly to exclusions and a school's wider legal duties including the European Convention on Human Rights and the Equality Act 2010, whilst also being rational, reasonable, fair and proportionate.

When establishing the facts in relation to an exclusion the Head of School must apply the civil standard of proof of 'balance of probabilities' rather than the criminal standard of 'beyond reasonable doubt.' Exclusions must also follow the provisions of the Public Sector Equality Duty in not discriminating against, harass or victimise pupils because of sex; race; disability; religion or belief; sexual orientation; pregnancy/maternity; or gender reassignment. Additionally, schools must also ensure that their policies and practices do not discriminate against pupils by unfairly increasing their risk of exclusion.

Schools must comply with their statutory duties in relation to SEN when administering the exclusion process. Therefore, schools must not exclude a student simply because they have additional needs or a disability that the school feels it is unable to meet.

Duration

A student may be excluded for one or more fixed periods up to a maximum of 45 school days in a single academic year, or permanently. A fixed-period exclusion does not have to be for a continuous period and can be for part of the school day for example lunchtime period. Fixed term exclusions cannot be converted into permanent exclusions. In exceptional cases, usually where further evidence has come to light, a further fixed-period exclusion may be issued to begin immediately after the first period ends, or a permanent exclusion may be issued to begin immediately after the end of the fixed period. 'Schools will not use Informal' or 'unofficial' exclusions, such as sending a pupil home 'to cool off', which are unlawful regardless of whether they occur with the agreement of parents or carers. All exclusions, even for short periods of time, will be formally recorded.

Factors to Consider Before Making an Exclusion

The Head of School should take account of any contributing factors that are identified after an incident has occurred, such as bereavement, mental health issues or bullying. Where a student has received multiple exclusions or is approaching the legal limit of 45 school days of fixed-period exclusion in an academic year, the Head of School should consider whether exclusion is providing an effective sanction.

Disruptive behaviour can be an indication of unmet needs. Where a school has concerns about a student's behaviour, it should try to identify whether there are any causal factors and intervene early in order to reduce the need for a subsequent exclusion. In this situation, schools should consider whether a multi-agency assessment that goes beyond the student's educational needs is required.

Permanent Exclusion

A decision to exclude a pupil permanently should only be used as a last resort, in response to a serious breach or persistent breaches of the trust's behaviour policy, and where allowing the student to remain in school would seriously harm the education or welfare of the student or others in the school.

A non-exhaustive list of examples of a single incident that may necessitate a permanent exclusion include:

- Serious actual or threatened violence against another student or member of staff
- Sexual or racial assault
- Supplying or using an illegal drug
- Carrying an offensive weapon

Informing Parents/Carers

The Head of School will immediately inform parents/carers of an exclusion. This ideally should be made by person or telephone in the first instance as this gives parents an opportunity to ask any initial questions or raise concerns directly with the Head of School.

This should be followed by written notification in a letter hand delivered or posted to their home address. It should be made in simple, accessible language and will provide the following information:

- The reason(s) for the exclusion
- The length of a fixed-term exclusion or that a permanent exclusion is being considered
- Information about parent/carers' right to make representations about a permanent exclusion to the governing body and how the student may be involved in this
- In meetings to consider the reinstatement of a student, the right of parents/carers to be represented at the meeting or be accompanied by a friend.
- Their legal duty to ensure their child (of compulsory school age) must not be present in a public place during school hours.

Extended Exclusions and Alternative Provision

Full time alternative provision must be provided from the sixth day of any exclusion. This provision must be in the schools' local authority if the exclusion is permanent.

When alternative provision has been arranged, the following information must be included in the letter to parents/carers:

- Start date
- Start and finish times
- Address at which the provision will take place
- Any information required by the student to identify the person they should report to on the first day

Where information on alternative provision is not available when the exclusion letter is sent, it may be provided in a subsequent notification. This will be provided without delay and 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/carers consent.

Wherever possible, schools should seek to start alternative provision before the sixth day, but if this is not possible then they should take reasonable steps to set and mark work for the student. This work should be appropriate, reasonable and accessible to the student.

Re-Integrating Excluded Students

The school will prepare a strategy for reintegrating a student who returns to school following a fixed period exclusion and managing their future behaviour. This will be communicated to parents/carers during a re-integration meeting with school. Measures that may be implemented include a behaviour contract, placing the student on report, phased return, or being placed in isolation/re-integration rooms.

Duty to Inform

The Head of School must immediately notify the chair of the local governing body and local authority when:

- Permanently excluding a student
- Excluding for more than 5 days in a term
- The exclusion would result in the student missing a public examination

Any other exclusions should be reported to the chair of governors and local authority once per term.

For a permanent exclusion, if the student lives outside the LA in which the academy is located, the Head of School will also immediately inform the student's 'home authority' of the exclusion and reason(s) without delay.

Governing Body Responsibilities

The local governing body has a duty to consider parent/carers representations about an exclusion. The requirements depend upon a number of factors, as illustrated in summary overview in Annex A.

The governing board must consider the reinstatement of an excluded student within 15 school days of receiving notification of the exclusion from the school, in any of the following circumstances:

- The exclusion is permanent
- Is a fixed term exclusion that would result in 15 or more excluded days in a term.
- It would result in missing a public examination or national curriculum test.

For exclusions of between 6 and 14 days, the governing body must consider representations from parents/carers within 50 school days of receiving notification of the exclusion. Where an exclusion would result in a pupil missing a public examination or national curriculum test, the governing body must where reasonably practicable consider the exclusion before the date of the examination or test. If it is not possible to convene a panel of governors, the chair of governors can make this decision on their own.

Exclusion Appeal Hearings

Exclusion appeal hearings should allow the attendance and representations of parents/carers/nominated friend, Head of School/School/another designated senior leader, and student involved. Any evidence to be considered should be exchanged with at least 5 school days before the meeting.

Decisions will be to either reinstate or decline to reinstate. Any decision should be lawful and made on the principle of 'balance of probabilities. This should be communicated in writing without delay to all parties and local authority/s. Clear minutes of the meeting will be taken and be made available to all parties if requested. The outcome will also be recorded on the student's educational record.

Where a public examination or national curriculum test could be missed, the governing body should exercise discretion to decide if the pupil can sit the examination or test. They should consider the interests and circumstances of the excluded student, the circumstances of the exclusion, as well as the interests of other students and staff at the school.

If a permanent exclusion is upheld, the formal notification of the decision should confirm the decision made as well as parents/carers right to ask for the decision to be reviewed by an independent review panel. The school should then provide the following details about this review, including:

- Who this appeal should be made to, grounds for appeal and the deadline for when this application should be made.
- Where appropriate, reference to how the student's Special Educational Needs are relevant to the exclusion
- That irrespective of whether the excluded student has recognised Special Educational Needs, parents/carers have a right to require the school to appoint a SEN expert to attend the review.

- Details of the role of the SEN expert and that there would be no cost to parents/carers for their use
- That parents/carers may at their own expense appoint someone to make written and/or oral representations to the panel, and may also bring a friend to the review
- That if parents believe that the exclusion has occurred as a result of discrimination, they may 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

Independent Review

Parents/carers have a right to request an independent review of a schools' decision to permanently exclude a student. This will be paid for by the school and must be made within 15-school days of notice being given to parents/carers not to reinstate a student.

Once requested, the review must be held within 15 school days of the request being made at a time and location convenient for all. Three people will constitute the panel, with representatives as follows:

Chair: A lay member who has not worked in any school in a paid capacity, except any experience as a school governor or volunteer.

School Trustee/Governor: who has served as a trustee/governor for at least twelve consecutive months in the last five years, provided they have not been teachers or a Head Teacher during this time

Head of School/Headteacher/Principal: Ideally, their experience should reflect the phase of education of the pupil and have occupied this role within the last five years.

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

- Are a trustee or member of the school/trust.
- Are the Head of School of the excluding school, or have held this position in the last 5 years
- Are an employee of the school, academy trust or the governing board of the excluding school have, or at any time have had, any connection with the school or trust, parents or pupil, or the incident leading to the exclusion, which might reasonably raise doubts about their impartiality

A clerk will be appointed to oversee the appeal, who must not have attended the school appeal hearing. In addition to the training required by law, clerks should have an up to date understanding of developments in case law which are relevant to exclusion.

Clerks will:

- Inform all parties of their rights in the hearing
- Determine whether the student is attending, and if not make clear to them and their parents/carers that they may provide a written statement to represent their views.

- Decide whether it is appropriate for an alleged victim wishes to be given a voice at the review. This may be an appearance in person or written statement, as deemed appropriate.
- Wherever possible, distribute relevant papers to all parties within five days of the meeting. Documents must include the governing boards decision, parents' application for a review and any policies or documents that the governing board was required to have regard to in making its decision. New evidence may be presented, but new reasons for making the exclusion can not be made by the school.
- Uphold the principle that students are entitled to know the full reasons behind their exclusion.
- Introduce all parties and their role in attendance at the appeal hearing
- Take minutes of the meeting.

Responsibilities of Panel Members at Review Meetings

The panel must consider the interests and circumstances of the excluded student, the circumstances in which they were excluded, whilst also having regard to the interests of other students and people working at the school.

Decisions will be made on the civil code basis of 'balance of probabilities' and the panel can decide to:

- Uphold the decision
- Recommend the school reconsiders reinstatement
- Quash the decision and direct that the governing board reconsiders reinstatement.

In considering whether to quash the decision the panel should apply the following tests:

- Illegality – did the governing board act outside the scope of its legal powers in deciding the student should not be reinstated.
- Irrationality – did the governing board rely on irrelevant points, fail to take account of all relevant points, or make a decision so unreasonable that no governing board acting reasonably in such circumstances could have made it.
- Procedural impropriety – was the original decision so procedurally unfair or flawed that justice was clearly not done. This means not simply a minor breach of procedure but something more substantive that has a significant impact on the quality of the decision-making process.

If the criteria for quashing the decision do not apply the panel should consider whether it would be appropriate to recommend the decision is reconsidered by the governors. This decision should only be made where the criteria for quashing are not met but the panel considers there have been some procedural flaws which the panel believe justify a reconsideration of the governing board's decision.

Notification of a Review Panel Decision

The panel must issue written notification to all parties without delay including:

- The panel's decision and reasons for it
- Where relevant, details of any financial readjustment/payment to be made if a governing board subsequently does not reinstate a pupil.
- Information that the panel has directed the governing board to place on the pupil's educational record.

The Governing Boards Duty to Consider a Reinstatement Following a Review

Where the panel directs or recommends a pupil should be reinstated, the governing body must do so within ten school days of the panel's decision. It is important that the governing board conscientiously reconsiders whether the student should be reinstated, irrespective of whether the panel has directed or merely recommended this. The board may decide to ignore a direction or recommendation and uphold the original decision. When the decision has been made, the governing board will notify parents, school and local authority without delay in writing, outlining reasons for the decision.

Annex A – A summary of the governing board’s duties to review the head teacher’s exclusion decision

