



Carlton Academy Trust Exclusion's Policy

Approved on behalf of Trustees:

Roger Butterfield

Date:

September 2021

Next Review Date:

September 2022

Section One:

Policy Statement, Aims and Scope

Carlton Academy Trust is committed to providing all students with outstanding educational outcomes. Establishing and maintaining outstanding standards of student behaviour and conduct is a key element necessary to achieve this. The use of exclusions, whether fixed-term or permanent, are one of the methods by which Trust schools can safeguard these standards.

Exclusions are only made by schools after careful consideration, and within statutory provisions as outlined in the DFE” Exclusion from maintained schools, academies and pupil referral units in England: Statutory guidance for those with legal responsibilities in relation to exclusion” September 2017.

Exclusion Guidelines

Legislation

Exclusions may only be made by the Head of School for disciplinary reasons, which includes behaviour out of school. They must be rational, reasonable, fair, and proportionate, with schools fully informing parents/carers and the reasons why this sanction has been applied.

When establishing facts in relation to an exclusion the Head of School must apply the civil standard 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 students by unfairly increasing their risk of exclusion.

Schools must comply with their statutory duties in relation to SEN and 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-term periods up to a maximum of 45 school days in a single academic year, or on a permanent basis. A fixed-term exclusion does not have to be for a continuous period and can be for part of the school day, for example lunchtimes.

Fixed-term exclusions cannot be converted into permanent exclusions. In exceptional cases, usually where further evidence has been discovered, a further fixed-term or permanent exclusion may be issued to begin immediately after the first fixed-term exclusion ends.

Schools must not use Informal’ or ‘unofficial’ exclusions, such as sending a student 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, must 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 in an academic year, Heads of School should consider whether exclusions are providing an effective sanction.

Disruptive behaviour may be an indication of unmet needs. When a school has concerns about a student's behaviour, it should try to identify any causal factors and make an early intervention to reduce the need for a subsequent exclusion. A multi-agency assessment should be considered as part of this.

Permanent Exclusions

A permanent exclusion should be made as a last resort in response to a serious breach/persistent breaches of the school's behaviour policy and allowing the student to remain in school would seriously harm the education or welfare of them or other students in the school. Examples 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 must immediately inform parents/carers of an exclusion. This ideally should be made by person or telephone in the first instance, as this provides parents/carers with an opportunity to ask any initial questions or raise concerns. This responsibility may be delegated to another appropriate member of staff.

The initial call must be followed-up by written notification in a letter hand-delivered or posted to their home address. It should be written in simple, accessible language and provide the following information:

- Reason(s) for the exclusion.
- The length of fixed-term exclusion or that a permanent exclusion is being considered.
- Information about their right to make representations about a permanent exclusion to Trustees.
- Their right to have professional representation at exclusion meetings or be accompanied by a friend.
- Their legal duty to ensure their child 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 must be in the same local authority if the exclusion is permanent.

Parents/carers must be informed in writing of the starting date for alternative provision, timings of the day, address, and who the student should report to on the first day. This information may be included in the initial exclusion letter or within a later communication without undue delay, and always 48 hours before the provision is due to start. The exception to this is where alternative provision is provided before the sixth day of an exclusion, where the 48-hour requirement may be waived with the agreement of parents/carers.

Schools should take reasonable steps to set and mark work prior to the start of alternative provision, which should be appropriate, reasonable, and accessible to the student.



Re-Integrating Excluded Students

The school must prepare a strategy for effectively reintegrating a student following a fixed term exclusion and discussed with parents/carers during a re-integration meeting at school. Measures include behaviour contracts, student reports, phased returns, working in re-integration units.

Duty to Inform

The Head of School must immediately notify the appointed Trustee with responsibility for Pastoral Care 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 must be reported to the link Trustee and local authority once per term.

For permanent exclusions where the student lives outside LA boundaries, the Head of School will also immediately inform the student's home authority of the exclusion and reason/s without delay.



Section Two: Exclusion Appeals

Trustees have a duty to consider exclusion appeals from parent/carers when. They must meet within 15 school days of receiving an appeal when:

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

When an exclusion is between 6 and 14 days, Trustees must hear the appeal within 50 school days. Where it would result in a student missing a public examination/national curriculum test, Trustees must meet before the date of the examination/test wherever reasonably possible. If this is not possible, the Chair of Trustees can decide on their own.

Exclusion Appeal Hearings

Hearings should allow the attendance and representations of:

- Parents/carers (with nominated friend)
- Head of School or another designated senior leader.
- Excluded student.

Any evidence to be considered at the hearing should be exchanged with at least 5 school days before the meeting.

Decisions will be to either reinstate or not. 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 as well as the local authority. 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/national curriculum test could be missed, Trustees should exercise discretion to decide if the student can sit the examination/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.

Where a permanent exclusion is upheld, the decision must be formally confirmed in writing 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 the appeal should be made, grounds for appeal, and deadline for appeals (within 15 days of notification of the decision)
- Reference to how the student's Special Educational Needs are relevant to the exclusion (where relevant)
- The right of parents/carers to require the school to appoint an SEN expert to attend the review, irrespective of whether the excluded student has special needs.
- Outline the role of the SEN expert, and that this would incur no cost to parents/carers.
- Parents/carers, at their own expense, may appoint someone to make written and/or oral representations to the panel.
- Bring a friend to the review
- That if parents/carers believe that the exclusion occurred because of discrimination they may make a claim under the Equality Act 2010. These are made to the first-tier tribunal: Special



Educational Needs and Disability in the case of disability discrimination, or the county court in other cases. Claims should be made within six months of the date on which the discrimination is alleged to have taken place

Independent Reviews

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. The review must be held within 15 school days at a time and location convenient for all.

Three people constitute the panel, 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 a teacher during this time.

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

A person may not serve on the 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, Trust, or governing body of the excluding school, or at any time have had any connection with the school, Trust, parents/carers, or student, or 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 at 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 the alleged victim/s wishes to be presented 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 school days of the meeting.
- Documents must include the Trustees decision, any policies/documents they considered in making the decision, and parents/carers application for a review. New evidence may be presented, but new reasons for making the exclusion cannot be made by the school.
- Confirm the principle that students are entitled to know the full reasons for their exclusion.
- Introduce all parties and their role within the meeting.
- Take minutes of the meeting.



Responsibilities of Panel Members at Review Meetings

Members must consider the interests and circumstances of the excluded student, circumstances of the exclusion, as well as the interests of other students and staff at the school.

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

- Uphold the decision
- Recommend the school reconsiders re-instatement
- Quash the decision and direct the Trustees to consider 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 Trustees 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 had a significant impact on the quality of the decision-making process.

The panel may also recommend Trustees reconsider the decision. This recommendation is made where the criteria for quashing aren't met, but the panel considers there have been some procedural flaws which justify a review.

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 Trustees subsequently do not reinstate a student.
- Information that the panel has directed Trustees to place on the student's educational record.

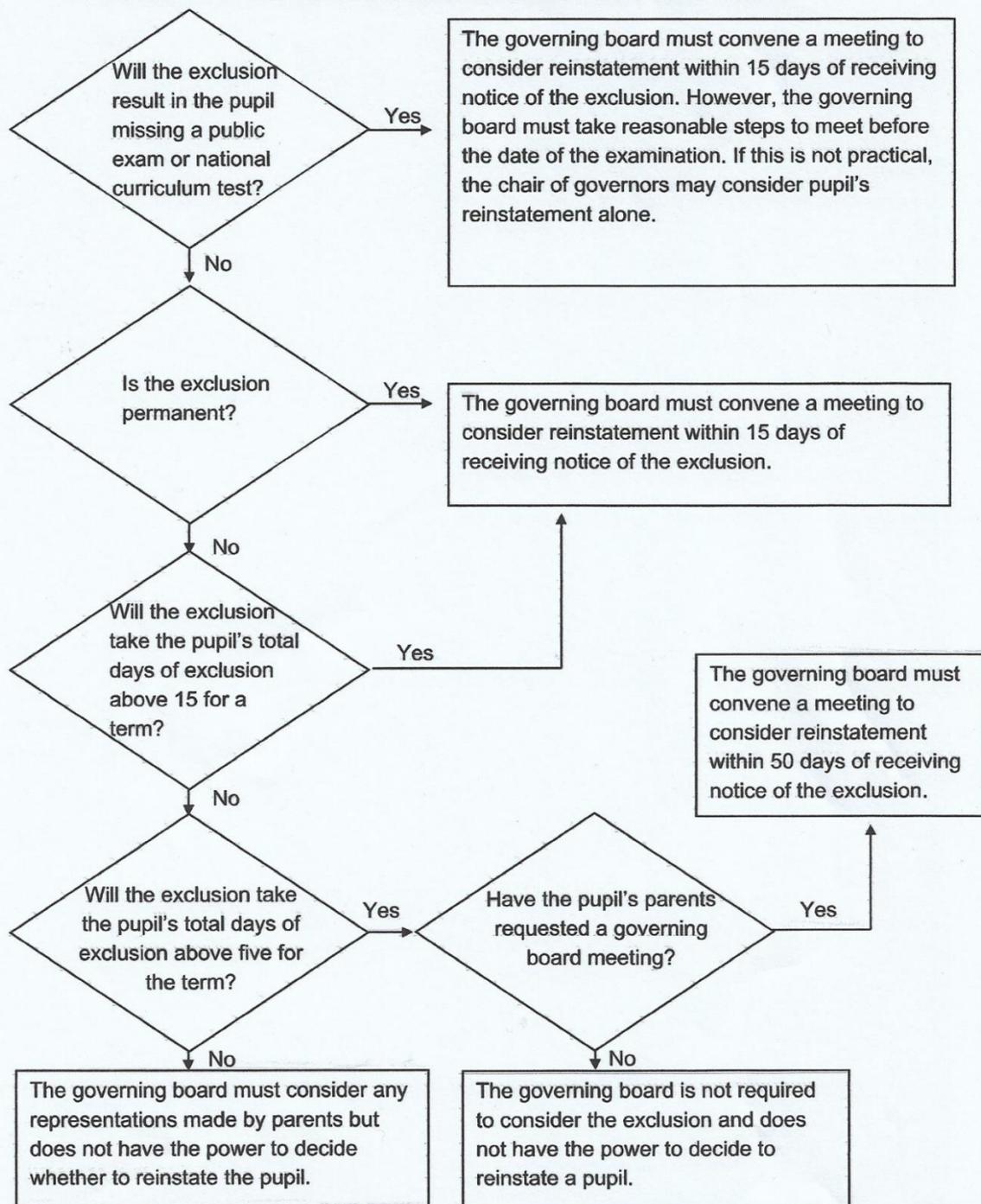
Trustees Duty to Consider a Reinstatement Following a Review

Where the panel directs or recommends a student should be reinstated, Trustees must do so within ten school days of the panel's decision. It is important that Trustees conscientiously reconsider whether the student should be reinstated, where this is recommended or directed.

Trustees may decide to ignore a direction or recommendation and uphold the original decision, but must notify parents/carers, 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



The governing board may delegate its functions to consider an exclusion to a designated committee. References to days mean 'school days'.

