

## APPENDIX 2: Suspensions and exclusions procedures



### Aims of the policy

We are committed to following all statutory exclusions procedures to ensure that every child receives an education in a safe and caring environment. Emmanuel College aims to:

- Ensure that the exclusions process is applied fairly and consistently.
- Help governors, staff, parents and students understand the exclusions process.
- Ensure that students in school are safe and happy.
- Prevent students from becoming NEET (not in education, employment, or training)
- Ensure all suspensions and permanent exclusions are carried out lawfully.

Our school is aware that off-rolling is unlawful. Ofsted defines off-rolling as:

*“The practice of removing a student from the school roll without a formal, permanent exclusion or by encouraging a parent to remove their child from the school roll, when the removal is primarily in the interests of the school rather than in the best interests of the student.”*

We will not suspend or exclude students unlawfully by directing them off site, or not allowing students to attend school:

- Without following the statutory procedure or formally recording the event. Statutory reasons why a student might be suspended is included in the Behaviour Policy.
- Because they have special educational needs and/or a disability (SEND) that the school feels unable to support.
- Due to poor academic performance.
- Because they haven't met a specific condition, such as attending a reintegration meeting.
- By exerting undue influence on a parent to encourage them to remove their child from the school.

### Legislation and statutory guidance

This policy is based on statutory guidance from the Department for Education: [Suspension and permanent exclusion from maintained schools, academies and student referral units in England, including student movement](#). It is based on the following legislation, which outlines schools' powers to exclude students:

- Section 51a of the [Education Act 2002](#), as amended by the [Education Act 2011](#)
- [The School Discipline \(Student Exclusions and Reviews\) \(England\) Regulations 2012](#)
- In addition, the policy is based on:
- Part 7, chapter 2 of the [Education and Inspections Act 2006](#), which sets out parental responsibility for excluded students
- Section 579 of the [Education Act 1996](#), which defines 'school day'
- The [Education \(Provision of Full-Time Education for Excluded Students\) \(England\) Regulations 2007](#), as amended by [The Education \(Provision of Full-Time Education for Excluded Students\) \(England\) \(Amendment\) Regulations 2014](#)
- [The Equality Act 2010](#)
- [Children and Families Act 2014](#)

### Definitions

- Suspension – when a student is removed from the school for a fixed period. This was previously referred to as a 'fixed-term exclusion'.
- Permanent exclusion – when a student is removed from the school permanently and taken off the school roll. This is sometimes referred to as an 'exclusion'.

- Off-site direction – when a LGB of a maintained school requires a student to attend another education setting temporarily, to improve their behaviour.
- Parent – any person who has parental responsibility and any person who has care of the child.
- Managed move – when a student is transferred to another school permanently. All parties, including parents and the admission authority for the new school, should consent before a managed move occurs.
- LGB – Local Governing Body.

### **Roles and responsibilities**

Only the Lead Principal/Head of School, can suspend or permanently exclude a student from school on disciplinary grounds. The decision can be made in respect of behaviour inside or outside of school. The Lead Principal/Head of School will only use permanent exclusion as a last resort. A decision to suspend or 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

Before deciding whether to suspend or exclude a student, the Lead Principal/Head of School will:

- Consider all the relevant facts and evidence on the balance of probabilities, including whether the incident(s) leading to the exclusion were provoked.
- Allow the student to give their version of events.
- Consider whether the student has special educational needs (SEN).
- Consider whether the student is especially vulnerable (e.g., the student has a social worker, or is a looked-after child (LAC)).
- Consider whether all alternative solutions have been explored, such as off-site direction or managed moves.
- The Lead Principal/Head of School will consider the views of the student, in light of their age and understanding, before deciding to suspend or exclude, unless it would not be appropriate to do so.
- Students who need support to express their views will be allowed to have their views expressed through an advocate, such as a parent or social worker.
- The Lead Principal/Head of School will not reach their decision until they have heard from the student and will inform the student of how their views were considered when making the decision.

### **Informing parents**

If a student is at risk of suspension or exclusion the Lead Principal/Head of School or another delegated person such as the Vice Lead Principal: behaviour and attitudes or a member of the pastoral leadership team will inform the parents as early as possible, in order to work together to consider what factors may be affecting the student's behaviour, and what further support can be put in place to improve the behaviour.

If the Lead Principal/Head of School decides to suspend or exclude a student, the parents will be informed of the period of the suspension or exclusion and the reason(s) for it, without delay. This will initially be verbally most often through a telephone conversation or by email if phone contact cannot be made and will be followed by a letter confirming the reason for suspension.

The parents will also be provided with the following information in writing, without delay:

- The reason(s) for the suspension or exclusion
- The length of the suspension or, for a permanent exclusion, the fact that it is permanent
- Information about parents' right to make representations about the suspension or permanent exclusion to the LGB.
- How any representations should be made
- Where there is a legal requirement for the LGB to hold a meeting to consider the reinstatement of a student, and that parents (or the student if they are 18 years old) have a right to attend the meeting, be represented at the meeting (at their own expense) and to bring a friend

The Lead Principal/Head of School will also notify parents without delay and by the end of the afternoon session on the first day their child is suspended or permanently excluded, that:

- For the first 5 school days of an exclusion (or until the start date of any alternative provision or the end of the suspension, where this is earlier), the parents are legally required to ensure that their child is not present in a public place during school hours without a good reason. This will include specifying on which days this duty applies.
- Parents may be given a fixed penalty notice or prosecuted if they fail to do this. If alternative provision is being arranged, the following information will be included, if possible:
  - The start date for any provision of full-time education that has been arranged.
  - 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.
  - Any information the student needs in order to identify the person they should report to on the first day.
  - If the Lead Principal/Head of School does not have the all the information about the alternative provision arrangements by the end of the afternoon session on the first day of the suspension or permanent exclusion, they can provide the information at a later date, 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 a suspension or permanent exclusion, in which case the school reserves the right to provide the information with less than 48 hours' notice, with parents' consent.

### **Informing the Chair of Governors**

The Lead Principal/Head of School will, without delay, notify the Chair of Governors of:

- Any permanent exclusion, including when a suspension is followed by a decision to permanently exclude a student.
- Any suspension or permanent exclusion would result in the student being suspended or permanently excluded for a total of more than 15 school days in a term.
- Any suspension or permanent exclusion which would result in the student missing a public exam.
- The Lead Principal/Head of School will notify the Governors once per term of any other suspensions of which they have not previously been notified, and the number of suspensions and exclusions which have been cancelled, including the circumstances and reasons for the cancellation.

### **Informing the local authority (LA)**

The Lead Principal/Head of School will notify the LA of all suspensions and permanent exclusions, regardless of the length of a suspension following Gateshead's specific procedures for informing them.

The notification will include:

- The reason(s) for the suspension or permanent exclusion.
- The length of a suspension or, for a permanent exclusion, the fact that it is permanent.
- For a permanent exclusion, if the student lives outside the LA in which the school is located, the Lead Principal/Head of School will also, without delay, inform the student's 'home authority' of the exclusion and the reason(s) for it.

### **Informing the student's social worker and/or virtual school head (VSH)**

If a:

- Student with a social worker is at risk of suspension or permanent exclusion, the Lead Lead Principal/Head of School will inform the social worker as early as possible.
- Student who is a looked-after child (LAC) is at risk of suspension or exclusion, the Lead Lead Principal/Head of School will inform the VSH as early as possible. This is in order to work together to consider what factors may be affecting the student's behaviour, and what further support can be put in place to improve the behaviour.

If the Lead Principal/Head of School decides to suspend or permanently exclude a student with a social worker / a student who is looked after, they will inform the student's social worker / the VSH, as appropriate, without delay, that:

- They have decided to suspend or permanently exclude the student
- The reason(s) for the decision
- The length of the suspension or, for a permanent exclusion, the fact that it is permanent

- The suspension or permanent exclusion affects the students ability to sit a public exam (where relevant) The social worker/VSH will be invited to any meeting of the LGB about the suspension or permanent exclusion. This is so they can provide advice on how the student's background and/or circumstances may have influenced the circumstances of their suspension or permanent exclusion. The social worker should also help ensure safeguarding needs and risks and the student's welfare are taken into account.

### **Cancelling suspensions and permanent exclusions**

The Lead Principal/Head of School may cancel a suspension or permanent exclusion that has already begun, but this will only be done where it has not yet been reviewed by the governing board. Where there is a cancellation:

- The parents, Chair of Governors and LA will be notified without delay.
- Where relevant, any social worker and VSH will notified without delay.
- Parents will be offered the opportunity to meet with the Lead Principal/Head of School to discuss the cancellation.
- As referred to above, the Lead Principal/Head of School will report to the LGB once per term on the number of cancellations.
- The student will be allowed back in school.

### **Providing education during the first 5 days of a suspension or permanent exclusion**

During the first 5 days of a suspension, if the student is not attending alternative (AP) provision, the Lead Principal/Head of School will take steps to ensure that achievable and accessible work is set and marked for the student. This will be set online via Microsoft Teams or by providing a paper pack of work.

If the student is looked after or if they have a social worker, the school will work with the LA to arrange AP from the first day following the suspension or permanent exclusion. Where this isn't possible, the school will take reasonable steps to set and mark work for the student, including the use of Microsoft teams.

### **The Local Governing Body (LGB)**

- Responsibilities regarding exclusions are delegated to the LGB.
- The LGB has a duty to consider parents' representations about a suspension or permanent exclusion. It has a duty to consider the reinstatement of a suspended or permanently excluded student in certain circumstances.
- For any suspension of more than 5 school days, the LGB will arrange suitable full-time education for the student.
- This provision will begin no later than the sixth day of the suspension.
- The LGB does not have to arrange such provision for students in their final year of compulsory education who do not have any further public exams to sit.

### **Monitoring and analysing suspensions and exclusions data**

The LGB will challenge and evaluate the data on the school's use of suspension, exclusion, off-site direction to alternative provision and managed moves.

The LGB will consider:

- How effectively and consistently the school's behaviour policy is being implemented.
- The school register and absence codes.
- Instances where students receive repeat suspensions.
- Interventions in place to support students at risk of suspension or permanent exclusion.
- Any variations in the rolling average of permanent exclusions, to understand why this is happening, and to make sure they are only used when necessary.
- Timing of moves and permanent exclusions, and whether there are any patterns, including any indications which may highlight where policies or support are not working.
- The characteristics of suspended and permanently excluded students, and why this is taking place.
- Whether the placements of students directed off-site into alternative provision are reviewed at sufficient intervals to assure that the education is achieving its objectives and that students are benefiting from it.
- The cost implications of directing students off-site.

### **The local authority (LA)**

- For permanent exclusions, the LA will arrange suitable full-time education to begin no later than the sixth school day after the first day of the exclusion.
- For students who are LAC or have social workers, the LA and the school will work together arrange suitable full time education to begin from the first day of the exclusion.

### **Considering the reinstatement of a student**

The LGB will consider and decide on the reinstatement of a suspended or permanently excluded student within 15 school days of receiving the notice of the suspension or exclusion if:

- The exclusion is permanent.
- It is a suspension which would bring the student's total number of days out of school to more than 15 in a term; or
- It would result in a student missing a public exam.

Where the student has been suspended, and the suspension does not bring the student's total number of days of suspension to more than 5 in a term, the LGB must consider any representations made by parents. However, it is not required to arrange a meeting with parents, and it cannot direct the Lead Principal/Head of School to reinstate the student.

Where the student has been suspended for more than 5 days, but less than 16 days, in a single term, and the parents make representations to the board, the LGB will consider and decide on the reinstatement of a suspended student within 50 school days of receiving notice of the suspension. If the parents do not make representations, the board is not required to meet, and it cannot direct the Lead Principal/Head of School to reinstate the student.

Where a suspension or permanent exclusion would result in a student missing a public exam or National Curriculum test, the LGB will, as far as reasonably practicable, consider and decide on the reinstatement of the student before the date of the exam or test. If this is not practicable, the LGB may consider the suspension or permanent exclusion and decide whether or not to reinstate the student.

The following parties will be invited to a meeting of the LGB and allowed to make representations or share information:

- Parents, or the student if they are 18 or over (and, where requested, a representative or friend)
- The student, if they are aged 17 or younger and it would be appropriate to their age and understanding (and, where requested, a representative or friend)
- The Lead Principal/Head of School
- The student's social worker, if they have one
- The VSH, if the student is looked after.

The LGB will try to arrange the meeting within the statutory time limits set out above and must try to have it at a time that suits all relevant parties. However, its decision will not be invalid simply on the grounds that it was not made within these time limits.

The LGB can either:

- Decline to reinstate the student, or,
- Direct the reinstatement of the student immediately, or on a particular date (except in cases where the board cannot do this).

In reaching a decision, the LGB will consider:

- Whether the decision to suspend or permanently exclude was lawful, reasonable, and procedurally fair.
- Whether the Lead Principal/Head of School followed their legal duties.
- The welfare and safeguarding of the student and their peers.
- Any evidence that was presented to the governing board.

They will decide whether or not a fact is true 'on the balance of probabilities. Minutes will be taken of the meeting, and a record kept of the evidence that was considered. The outcome will also be recorded on the student's educational record, and copies of relevant papers will be kept with this record.

The LGB will notify, in writing, the following stakeholders of its decision, along with reasons for its decision, without delay:

- The parents, or the student, if they are 18 or older
- The Lead Principal/Head of School
- The student's social worker, if they have one
- The VSH, if the student is looked after
- The local authority
- The student's home authority, if it differs from the school's.

Where an exclusion is permanent and the LGB has decided not to reinstate the student, the notification of decision will also include the following:

- The fact that it is a permanent exclusion.
- Notice of parents' right to ask for the decision to be reviewed by an independent review panel
- The date by which an application for an independent review must be made (15 school days from the date on which notice in writing of the governing board's decision is given to parents).
- The name and address to which an application for a review and any written evidence should be submitted.
- That any application should set out the grounds on which it is being made and that, where appropriate, it should include reference to how the student's special educational needs (SEN) are considered to be relevant to the permanent exclusion.
- That, regardless of whether the excluded student has recognised SEN, parents have a right to require the school to appoint an SEN expert to advise the review panel.
- Details of the role of the SEN expert and that there would be no cost to parents for this appointment.
- That parents must make clear if they wish for an SEN expert to be appointed in any application for a review.
- Parents may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents may also bring a friend to the review.
- That, if parents believe that the permanent exclusion has occurred because of unlawful 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. Also, that any 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**

- If parents apply for an independent review within the legal timeframe, Emmanuel Schools Foundation will arrange for an independent panel to review the decision of the LGB not to reinstate a permanently excluded student.
- Applications for an independent review must be made within 15 school days of notice being given to the parents by the LGB of its decision to not reinstate the student or, if after this time, within 15 school days of the final determination of a claim of discrimination under the Equality Act 2010 regarding the permanent exclusion.
- A panel of 3 or 5 members will be constituted with representatives from each of the categories below. Where a 5-member panel is constituted, 2 members will come from the school governor category and 2 members will come from the Lead Principal/Head of School category.

At all times during the review process there must be the required representation on the panel.

- 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.
- Current or former school governors who have served as a governor for at least 12 consecutive months in the last 5 years, provided they have not been teachers or Lead Principal/Head of Schools during this time.

- Lead Principal/Head of Schools or individuals who have been a Lead Principal/Head of School within the last 5 years.

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

- Are a member or trustee of the Emmanuel Schools Foundation.
- Are the Lead Principal/Head of School of the excluding school or have held this position in the last 5 years.
- Are an employee of Emmanuel Schools Foundation or the governing board, of the excluding school (unless they are employed as a Lead Principal/Head of School at another school).
- Have, or at any time have had, any connection with the Emmanuel Schools Foundation, Emmanuel College, governing board, parents or student, 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.

The panel must consider the interests and circumstances of the student, including the circumstances in which the student was permanently excluded, and have regard to the interests of other students and people working at the school. Taking into account the student's age and understanding, the student or their parents will be made aware of their right to attend and participate in the review meeting and the student should be enabled to make representations on their own behalf, should they desire to.

Where a SEN expert is present, the panel must seek and have regard to the SEN expert's view of how SEN may be relevant to the student's permanent exclusion.

Where a social worker is present, the panel must have regard to any representation made by the social worker of how the student's experiences, needs, safeguarding risks and/or welfare may be relevant to the student's permanent exclusion.

Where a VSH is present, the panel must have regard to any representation made by the social worker of how any of the child's background, education and safeguarding needs were considered by the Lead Principal/Head of School in the lead up to the permanent exclusion or are relevant to the student's permanent exclusion.

Following its review, the independent panel will decide to do 1 of the following:

- Uphold the governing board's decision.
- Recommend that the LGB reconsiders reinstatement.
- Quash the governing board's decision and direct that they reconsider reinstatement (only if it judges that the decision was flawed).

New evidence may be presented, though the school cannot introduce new reasons for the permanent exclusion or the decision not to reinstate. The panel must disregard any new reasons that are introduced.

In deciding whether the decision was flawed, and therefore whether to quash the decision not to reinstate, the panel must only take account of the evidence that was available to the LGB at the time of making its decision. This includes any evidence that the panel considers would, or should, have been available to the LGB and that it ought to have considered if it had been acting reasonably.

If evidence is presented that the panel considers it is unreasonable to expect the LGB to have been aware of at the time of its decision, the panel can take account of the evidence when deciding whether to recommend that the LGB reconsider reinstatement.

The panel's decision can be decided by a majority vote. In the case of a tied decision, the chair has the casting vote. Once the panel has reached its decision, the panel will notify all parties in writing without delay. This notification will include:

- The panel's decision and the reasons for it.

- Where relevant, details of any financial readjustment or payment to be made if the SIB does not subsequently decide to offer to reinstate the student within 10 school days.
- Any information that the panel has directed the LGB to place on the student's educational record.

### **School registers**

A student's name will be removed from the school admission register if:

- 15 school days have passed since the parents were notified of the LGB's decision to not reinstate the student and no application has been made for an independent review panel, or
- The parents have stated in writing that they will not be applying for an independent review panel
- Where an application for an independent review has been made within 15 school days, the LGB will wait until that review has concluded before removing a student's name from the register.
- While the student's name remains on the school's admission register, the student's attendance will still be recorded appropriately. Where alternative provision has been made for an excluded student and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.
- Where excluded students are not attending alternative provision, code E (absent) will be used.

### **Making a return to the LA**

Where a student's name is to be removed from the school admissions register because of a permanent exclusion, the school will make a return to the LA. The return will include:

- The student's full name.
- The full name and address of any parent with whom the student normally resides.
- At least 1 telephone number at which any parent with whom the student normally resides can be contacted in an emergency.
- The grounds upon which their name is to be deleted from the admissions register (i.e., permanent exclusion)
- Details of the new school the student will attend, including the name of that school and the first date
- When the student attended or is due to attend there, if the parents have told the school the student is moving to another school.
- Details of the student's new address, including the new address, the name of the parent(s) the student is going to live there with, and the date when the student is going to start living there, if the parents have informed the school that the student is moving house. This return must be made as soon as the grounds for removal is met and no later than the removal of the student's name.

### **Returning from a suspension**

#### **Reintegration strategy**

- Following suspension, the school will put in place a strategy to help the student reintegrate successfully into school life and full-time education.
- Where necessary, the school will work with third-party organisations to identify whether the student has any unmet special educational and/or health needs.
- Part-time timetables will not be used as a tool to manage behaviour and, if used, will be put in place for the minimum time necessary.
- The strategy will be regularly reviewed and adapted where necessary throughout the reintegration process in collaboration with the student, parents, and other relevant parties.

#### **Reintegration meetings**

- The school will explain the reintegration strategy to the student in a reintegration meeting before or on the student's return to school.
- During the meeting the school will communicate to the student that they are getting a fresh start and that they are a valued member of the school community.
- The student, parents, a member of senior staff, and any other relevant staff will be invited to attend the meeting.



- The meeting can proceed without the parents in the event that they cannot or do not attend.
- The school expects all returning students and their parents to attend their reintegration meeting, but students who do not attend will not be prevented from returning to the classroom.

### **Monitoring arrangements**

Emmanuel College will collect data on the following:

- Attendance, permanent exclusions and suspensions
- Use of student referral units, off-site directions and managed moves

The data will be analysed every term by the Head of School and will report back to the Lead Principal and LGB. The school will use the results of this analysis to make sure it is meeting its duties under the Equality Act 2010. If any patterns or disparities between groups of students are identified by this analysis, the school will review its policies in order to tackle it.

Emmanuel Schools Foundation will work with Emmanuel College and the other schools within the foundation to consider this data, and to analyse whether there are patterns across the trust, recognising that numbers in any 1 school may be too low to allow for meaningful statistical analysis.

### **Links with other policies**

These procedures are linked to our:

- Behaviour and Discipline Policy
- SEND policy.