

# Presdales School



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<b>Author/Title</b>	Matthew Warren
<b>Committee Responsible</b>	Students
<b>Trustee Link</b>	Maddie Waller
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## Enquiries & comments

Any enquiries and comments about this publication may be made to:

Telephone: 01920 462210 / Email: [admin@presdales.herts.sch.uk](mailto:admin@presdales.herts.sch.uk)

Address: Hoe Lane, Ware, Hertfordshire SG12 9NX

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### 1. Aims

Our school aims to ensure that:

- The exclusions process is applied fairly and consistently
- The exclusions process is understood by trustees, staff, parents and students
- Students in school are safe and happy
- Students do not become NEET (not in education, employment or training)

### 2. Legislation and statutory guidance

This policy is based on statutory guidance from the Department for Education: [Exclusion from maintained schools, academies and student referral units \(PRUs\) in England](#).

It is based on the following legislation, which outline schools' powers to exclude students:

- Section 52 of the Education Act 2002, as amended by the Education Act 2011
- The School Discipline (Student Exclusions and Reviews) (England) Regulations 2012
- Sections 64-68 of the School Standards and Framework Act 1998

In addition, the policy is based on:

- Part 7, chapter 2 of the [Education and Inspections Act 2006](#), which looks at 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](#)

This policy complies with our funding agreement and articles of association.

### 3. The decision to exclude

Only the Headteacher, or acting Headteacher, can exclude a student from school. A permanent exclusion will be taken as a last resort.

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

A 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

Before deciding whether to exclude a student, either permanently or for a fixed period, the Headteacher will:

- Consider all 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)

### 4. Definition

For the purposes of exclusions, school day is defined as any day on which there is a school session. Therefore, INSET or staff training days do not count as a school day.

## 5. Roles and responsibilities

### 5.1 The Headteacher

#### Informing parents

The Headteacher will immediately provide the following information, in writing, to the parents of an excluded student:

- The reason(s) for the exclusion
- The length of a fixed-term exclusion or, for a permanent exclusion, the fact that it is permanent
- Information about parents’ right to make representations about the exclusion to the governing board and how the student may be involved in this
- How any representations should be made
- Where there is a legal requirement for the trust board to meet to consider the reinstatement of a student, and that parents have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend

The Headteacher will also notify parents by the end of the afternoon session on the day their child is excluded that for the first 5 school days of an exclusion, or until the start date of any alternative

provision where this is earlier, parents are legally required to ensure that their child is not present in a public place during school hours without a good reason. 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 when notifying parents of an exclusion:

- 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 required by the student to identify the person they should report to on the first day

Where this information on alternative provision is not reasonably ascertainable by the end of the afternoon session, it may be provided in a subsequent notice, but it will be provided 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' consent.

### **Informing the trust board and local authority**

The Headteacher will immediately notify the trust board and the local authority (LA) of:

- A permanent exclusion, including when a fixed-period exclusion is made permanent
- Exclusions which would result in the student being excluded for more than 5 school days (or more than 10 lunchtimes) in a term
- Exclusions which would result in the student missing a public examination

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

For all other exclusions, the Headteacher will notify the trust board once a term.

## **5.2 The trust board**

Responsibilities regarding exclusions is delegated to the Trustee disciplinary panel

The Trustee disciplinary panel has a duty to consider the reinstatement of an excluded student (see section 6).

Within 14 days of receipt of a request, the trust board will provide the secretary of state with information about any exclusions in the last 12 months.

For a fixed-period exclusion of more than 5 school days, the trust board will arrange suitable full-time education for the student. This provision will begin no later than the sixth day of the exclusion.

Provision does not have to be arranged for students in the final year of compulsory education who do not have any further public examinations to sit.

## **5.3 The LA**

For permanent exclusions, the LA is responsible for arranging suitable full-time education to begin no later than the sixth day of the exclusion.

## 6. Considering the reinstatement of a student

The Trustees disciplinary panel will consider the reinstatement of an excluded student within 15 school days of receiving the notice of the exclusion if:

The exclusion is permanent

It is a fixed-term exclusion which would bring the student's total number of school days of exclusion to more than 15 in a term

It would result in a student missing a public examination

If requested to do so by parents, the Trustees disciplinary panel will consider the reinstatement of an excluded student within 50 school days of receiving notice of the exclusion if the student would be excluded from school for more than 5 school days, but less than 15, in a single term.

Where an exclusion would result in a student missing a public examination, the Trustees disciplinary panel will consider the reinstatement of the student before the date of the examination. If this is not practicable, the Trustees disciplinary panel will consider the exclusion and decide whether or not to reinstate the student.

The Trustees disciplinary panel can either:

➤ Decline to reinstate the student, or

➤ Direct the reinstatement of the student immediately, or on a particular date

In reaching a decision, the Trustees disciplinary panel will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the Headteacher 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.

Minutes will be taken of the meeting, and a record of evidence considered kept. The outcome will also be recorded on the student's educational record.

The Trustees disciplinary panel will notify, in writing, the Headteacher, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the Trustees disciplinary panel decision will also include the following:

➤ The fact that it is permanent

➤ Notice of parents' right to ask for the decision to be reviewed by an independent review panel, and:

- The date by which an application for an independent review must be made
- The name and address to whom an application for a review should be submitted
- That any application should set out the grounds on which it is being made and that, where appropriate, reference to how the student's SEND are considered to be relevant to the exclusion
- That, regardless of whether the excluded student has recognised SEND, parents have a right to require the academy trust to appoint an SEND expert to attend the review
- Details of the role of the SEND expert and that there would be no cost to parents for this appointment
- That parents must make clear if they wish for an SEND expert to be appointed in any application for a review

- That 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 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

## 7. An independent review

If parents apply for an independent review, the academy trust will arrange for an independent panel to review the decision of the trust board 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 Trustees disciplinary panel of its decision to not reinstate a student.

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 trustees' category and 2 members will come from the Headteacher category.

- A lay member to chair the panel who has not worked in any school in a paid capacity, disregarding any experience as a school trustee or volunteer
- School trustees who have served as a trustee for at least 12 consecutive months in the last 5 years, provided they have not been teachers or headteachers during this time
- Headteachers or individuals who have been a Headteacher within the last 5 years

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

- Are a member of the academy trust, or trust board of the excluding school
- Are the Headteacher of the excluding school, or have held this position in the last 5 years
- Are an employee of the academy trust, or the trust board, of the excluding school (unless they are employed as a Headteacher at another school)
- Have, or at any time have had, any connection with the academy trust, school, trust 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 (see appendix 1 for what training must cover)

A clerk will be appointed to the panel.

The independent panel will decide one of the following:

- Uphold the governing board's decision
- Recommend that the trust board reconsiders reinstatement
- Quash the board's decision and direct that they reconsider reinstatement (only when the decision is judged to be flawed)

The panel's decision can be decided by a majority vote. In the case of a tied decision, the chair has the casting vote.

## 8. School registers

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

- 15 school days have passed since the parents were notified of the exclusion panel'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, the trust board will wait until that review has concluded before removing a student's name from the register.

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.

## 9. Returning from a fixed-term exclusion

Following a fixed-term exclusion, a re-integration meeting will be held involving the student, parents, a member of senior staff and other staff, where appropriate.

The following measures may be implemented when a student returns from a fixed-term exclusion:

- Pastoral support plan will be written in conjunction with the student and parent/carers, targets set and a review date agreed upon
- It may also be appropriate for a student to be placed onto a monitoring report for a fixed period of time
- It may also be appropriate for us to make a referral to the Rivers ESC for outreach support

## 10. Monitoring arrangements

The Headteacher monitors the number of exclusions every term and reports back to the trustees. They also liaise with the local authority to ensure suitable full-time education for excluded students.

## 11. Links with other policies

This exclusions policy is linked to our:

- Behaviour for Learning policy
- SEND policy and information report
- Drugs and Alcohol policy

## Appendix 1: Independent review panel training

The academy trust must ensure that all members of an independent review panel and clerks have received training within the 2 years prior to the date of the review.

Training must have covered:

- The requirements of the primary legislation, regulations and statutory guidance governing exclusions, which would include an understanding of how the principles applicable in an application for judicial review relate to the panel's decision making
- The need for the panel to observe procedural fairness and the rules of natural justice
- The role of the chair and the clerk of a review panel
- The duties of headteachers, trust board and the panel under the Equality Act 2010
- The effect of section 6 of the Human Rights Act 1998 (acts of public authorities unlawful if not compatible with certain human rights) and the need to act in a manner compatible with human rights protected by that Act

## Appendix 2 – Changes to the school exclusion process during the coronavirus outbreak

This statutory guidance describes the temporary changes that have been made to the school exclusion process due to coronavirus (COVID-19). (DfE)

The normal arrangements and procedures that must follow a decision to exclude on disciplinary grounds are described in the 2017 statutory guidance on [exclusion from maintained schools](#).

[academies and student referral units in England](#). They are unchanged except as noted in this guidance.

### **Important dates**

All exclusions occurring between 25 September 2021 and 24 March 2022 (inclusive of those dates) are subject to temporary arrangements with regards to:

- the use of remote access technology (for example videoconferencing or telephone conferencing software) for meetings of governing boards or independent review panels

Governing boards and independent review panels (IRPs) who have a duty to meet to discuss an exclusion that occurred between 25 September 2021 and 24 March 2022 must ensure that any such meeting takes place within the normal statutory timescales described in the statutory guidance [Suspensions and permanent exclusions from maintained schools, academies and pupil referral units in England](#).

If the deadlines are missed because of COVID-19, the meeting must be held as soon as it becomes reasonably practicable to meet either in person or via remote access (respecting the conditions for such a meeting).

Governing boards and IRPs should:

- facilitate remote access meetings where it is not reasonably practicable to meet in person
- consider the [actions for schools during the coronavirus \(COVID-19\) outbreak](#)

A permanent exclusion should be taken as having 'occurred' on the first day of the permanent exclusion.

Any permanent exclusion covered by these arrangements will continue to be subject to them until the procedures for scrutiny of the permanent exclusion have been exhausted.

Governing boards and arranging authorities for independent review panels should take all reasonable steps to meet the normal deadlines for exclusions occurring after 24 September 2020.

They should:

- consider the [guidance on protective measures for the full opening of schools](#)
- facilitate remote access meetings where it is not reasonably practicable to meet in person

If the deadlines are missed because of coronavirus (COVID-19), the meeting must be held as soon as it becomes reasonably practicable to meet either in person or via remote access (respecting the conditions for such a meeting).

An exclusion should be taken as having 'occurred' on the first day of the exclusion.

Any exclusions covered by these arrangements will continue to be subject to them until the procedures for scrutiny of the exclusion have been exhausted.

## Remote meetings

For suspensions and exclusions occurring between 25 September 2021 and 24 March 2022 (inclusive of those dates), meetings of governing boards or independent review panels should be held via remote access if:

- it is not reasonably practicable for the meeting to take place in person, within the usual timescales, due to coronavirus (COVID-19 and the governing board (or arranging authority, if the meeting is an IRP) is satisfied that:
  - all the participants agree to the use of remote access
  - all the participants have access to the technology which will allow them to hear and speak throughout the meeting, and to see and be seen, if a live video link is used
  - all the participants will be able to put across their point of view or fulfil their function
  - the meeting can be held fairly and transparently via remote access

It is the responsibility of the school governing board (or the arranging authority in the case of an IRP meeting) to make sure these conditions are met before a meeting takes place.

Those who have no intention of taking part in the meeting should not be treated as 'participants' for the purposes of the conditions.

When determining if it's practicable to meet in person the governing board or arranging authority should assess:

- the facts of the case
- the circumstances in which a meeting in person could be expected to take place
- the needs of the intended participants (as far as this is possible)
- the latest public health guidance (including the [guidance for full opening of schools](#))

## Arranging a remote access meeting

The governing board or arranging authority should explain the technology they propose to use and make sure that the participants, particularly pupils and their families, know that they do not have to agree to a meeting to be held via remote access.

Where a parent or pupil has given their agreement for a meeting to be held via remote access, the other participants should accommodate that preference except in exceptional circumstances.

Governing boards, arranging authorities and panel members must:

- comply with relevant equalities legislation
- recognise that some participants may find it difficult to participate in a remote access meeting, for example if they have a disability or if English is not their first language

The governing board or arranging authority should take reasonable steps to facilitate a parent, child or young person's access to the technology required. For example, governing boards and arranging authorities may wish to run a 'test meeting' to trial if technology that is going to be used is suitable.

If a governor, trustee, panel member or other participant requires support to access or use remote access technology, the governing board or arranging authority should facilitate this to ensure the meeting can be held promptly.

### **Fairness and transparency**

The governing board or arranging authority must assess whether a meeting can be held fairly and transparently via remote access with reference to the facts of each case. It cannot be decided by following a general policy.

If a governing board or arranging authority is not satisfied that a meeting can be held fairly and transparently via remote access, they should consider using reasonable adjustments to overcome this. They should consult with parents and pupils to take account of their wishes.

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### **Running the meeting**

If a meeting is held via remote access, every effort should be made by the chair to check the participants understand the proceedings and can engage with them, to ensure the meeting is conducted fairly.

If, once the meeting starts, the meeting cannot proceed fairly (for example, because a participant cannot access the meeting), the governing board or IRP should adjourn the meeting.

The use of remote access does not alter other procedural requirements that may apply to governing boards, arranging authorities or IRPs. For example, if a parent requests the appointment of a special educational needs (SEN) expert to advise a review panel, the arranging authority must appoint one and cover the cost as normal. Parents may be joined by a friend or representative, as normal.

Though governing boards and IRPs must consider written representations if they are made, the law does not allow for solely paper-based 'meetings', conducted in writing.

As long as the conditions for a remote access meeting are met, it is possible for some participants to be present in person and for others to join the meeting via remote access. All the participants must have access to technology which will allow them to hear and be heard by others throughout (and to see and be seen throughout, if a live video link is used).

To help meetings run smoothly and ensure they are accessible for participants:

- provide clear instructions to participants about how to join the meeting virtually, and distribute the relevant papers in a timely manner ahead of the meeting
- indicate a named person who participants can contact, with any questions they may have beforehand
- ensure the chair is prepared to explain the agenda at the start of the meeting, and to provide clear guidance on how the meeting will be run, for example:
  - how participants should indicate they wish to speak

- how any 'chat' functions should be used
- whether there will be any breaks in proceedings
- how participants can access advocacy services during the meeting
- consider holding a pre-meeting with attendees to check that the available technology is suitable, and all participants understand how to access the meeting

### **Applications for an independent review**

The deadline for applications for an independent review in relation to exclusions occurring between 1 June 2020 and 24 March 2021 will be 25 school days from the date on which notice in writing of the governing board's decision is given to parents, or directly to the student if they are 18 or above.

Schools must wait for the extended period of 25 school days to pass without an application having been made before deleting the name of a permanently excluded student from their admissions register, in accordance with the Education (Student Registration) (England) Regulations 2006 as amended.

### **Timescales for exclusions between 25 September 2020 and 24 March 2021**

The deadline for applications for an independent review has been reinstated to normal statutory timescales (15 days) in relation to permanent exclusions occurring from 25 September 2021. Applications for an independent review must be made within 15 school days from the date on which notice of the governing board's decision is given in writing to parents, or directly to the pupil if they are 18 or above.

Schools must allow 15 school days to pass without an application having been made before deleting the name of a permanently excluded pupil from their admissions register. This is in accordance with the Education (Pupil Registration) (England) Regulations 2006 (as amended).

The deadline for applications for an independent review in relation to permanent exclusions occurring between 25 September 2020 and 24 September 2021 remains 25 school days from the date on which notice of the governing board's decision is given in writing to parents, or directly to the pupil if they are 18 or above.