



# Exclusions Policy

## PURPOSE

This policy outlines the key principles, roles and responsibilities for exclusions in all Ark schools, in line with statutory guidance.

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## POSITIONING WITHIN ARK OPERATIONAL MODEL

Component	Element
<input type="checkbox"/> Strategic Leadership & Planning <input type="checkbox"/> Monitoring, Reporting & Data <input type="checkbox"/> Governance & Accountabilities <input type="checkbox"/> Teaching & Learning <input type="checkbox"/> Curriculum & Assessment <input checked="" type="checkbox"/> Culture, Ethos & Wellbeing <input type="checkbox"/> Pathways & Enrichment <input type="checkbox"/> Parents & Community <input type="checkbox"/> Finance, IT & Estates <input type="checkbox"/> Our People	Exclusions

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## Key Changes

The last exclusions policy was approved in July 2021. The DfE updated the [statutory guidance](#) on suspensions and exclusions in July 2022 to come into effect on 1<sup>st</sup> September 2022. This policy has incorporated all changes to the DfE statutory guidance, including;

- The timeframe for informing parents of a suspension or exclusion, including the timeframe to inform parents of alternative provision arrangements for day 6+ provision (*see section 9.1*).
- The requirement to inform the Local Authority of all suspensions and permanent exclusions, regardless of the length of a suspension (*see section 9.3*).
- The requirement to involve a pupil's social worker and/or Virtual Head of School in Governor Review Meetings (*see section 9.4*).
- The requirement for data on pupil moves (e.g. Managed Moves and Alternative Provision) and the characteristics of pupils who are permanently excluded to be reviewed at Trust and LGB level (*see section 10*).
- The importance of Safeguarding as the paramount consideration, especially in instances of child-on-child abuse (*see section 5*).
- The governor review meeting paperwork should be circulated at least five school days in advance of the meeting (*see section 13*).
- Clarification that police involvement should not delay a Principal's decision to suspend or permanently exclude a pupil and governors must not delay a review meeting past the statutory timeframe because of criminal proceedings (*see section 15*).

## 1. Introduction

All Ark schools must ensure that their exclusion procedures comply with statutory guidance from the Department for Education (DfE), last updated in September 2022.<sup>1</sup> As such, this policy supersedes all other school-level handbook or policy statements as relate to exclusions.

## 2. Aims

All parties involved in exclusions, including Principals, parents, governing bodies and Independent Review Panels, must have regard to the statutory guidance. This policy outlines the key principles, roles and responsibilities around exclusion to ensure that all exclusion proceedings are conducted in line with statutory guidance.

Further guidance is available for parents, governors and Principals on procedural matters relating to exclusions, available on the Ark Library and from the central [governance team](#).

## 3. Suspensions and Permanent Exclusions

Exclusion can only be for a breach of a school's behaviour policy, which must be published on the school's website and proactively shared with pupils and parents. It is important that

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<sup>1</sup> Department for Education publication – *Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement Guidance for maintained schools, academies, and pupil referral units in England* (2022). Available online at <https://www.gov.uk/government/publications/school-exclusion>.

all pupils understand the school's expectations of behaviour and the consequences for non-compliance with school policy.

There are two types of exclusion: suspension and permanent.

Suspensions must only be given for disciplinary grounds and must always be processed and recorded as a formal exclusion. This includes any short period of time when the pupil is excluded, such as lunchtimes or being sent home early. There is a maximum limit of 45 school days in an academic year for suspensions.

Permanent exclusions may be in response to persistent breaches of the behaviour policy **or** for a one-off serious breach of the behaviour policy, **and** where allowing the pupil to remain in school will be detrimental to the education and welfare of the pupil and/or others at the academy. Permanent exclusion must be a last resort, and Principals must consider alternative arrangements, such as a managed move, before permanently excluding any pupil. Further guidance on Managed Moves is available on the Ark Library. See section 8: The Principal's role in exclusions below for further details about the decision-making process for permanent exclusions.

The law does not allow for extending a period of suspension or 'converting' a suspension into a permanent exclusion. In exceptional circumstances, such as cases involving a serious breach of the behaviour policy where additional evidence (including mitigating evidence) is required before making a decision, the school may issue a suspension pending investigation. Following investigation, the school may issue a further separate suspension to begin immediately after the first suspension ends or a separate permanent exclusion to begin immediately after the end of the suspension.

A Principal may cancel an exclusion that has not yet been reviewed by the governing body. When an exclusion is cancelled, the parents, governing body, LA(s) and, if relevant, the pupil's Social Worker and/or Virtual School Headteacher must be notified without delay. The parents should be offered the opportunity to meet with the Principal to discuss the circumstances that led to the cancelled exclusion.

#### **4. The Right to Education**

All pupils of compulsory school age have a right to full time education and schools remain responsible for the education and welfare of all pupils on their roll up to the point when they are formally removed.

For any exclusion involving a pupil who is a Looked After Child, the school and Local Authority must work together to arrange alternative provision from the first day of exclusion and document the provision of suitable education on the pupil's Personal Education Plan (PEP).

For all other pupils, the school must set work, and have it marked, for the first five days of exclusion. Online provision such as SPark, Google Classroom or Oak Academy can be used but schools should ensure the work set is accessible and achievable for the pupil and they have the necessary equipment, such as a laptop. From day six onwards, alternative provision must be arranged. For permanent exclusion, the pupil's home local authority is responsible for arranging this and for suspensions, the school is responsible. Schools must carefully assess and monitor the quality of the alternative provision and ensure appropriate safeguarding measures are in place. Further guidance on the use of Alternative Provision is available on the Ark Library.

## **5. Safeguarding**

Schools have a statutory duty to safeguard and promote the welfare of their pupils and must have regard for the statutory guidance [Keeping Children Safe in Education](#). Where an exclusion, or the governing body's reinstatement of a pupil, coincides with a safeguarding investigation it is important that decisions regarding the duty to provide an education are made alongside the duty to safeguard and support children. This is particularly important in cases of child-on-child abuse and allegations of sexual violence and assault. In these circumstances, the school's Designated Safeguarding Lead (or Deputy) should undertake the appropriate risk and needs assessments and take a leading role, supported by other agencies, to ensure the welfare and best interests of the child come first.

## **6. Equalities Legislation**

Under the Equality Act 2010, pupils must not be discriminated against, victimised or bullied because of protected characteristics. This includes ensuring that policies and practices do not discriminate by unfairly increasing a pupil's risk of exclusion. Pupils with Special Educational Needs and Disabilities (SEND) are particularly at risk of this, and schools should be proactive to make reasonable adjustments to policy and practice, where needed, to avoid discrimination.

## **7. Reintegration**

Suspension is a disciplinary mechanism available to schools and should be used to improve behaviour. Schools should support pupils to successfully reintegrate into school life following a suspension and have a reintegration strategy that offers pupils a fresh start, helps them understand the impact of their behaviour and supports them to meet behaviour expectations in the future. The strategy should be discussed with the pupil at the reintegration meeting before or at the beginning of their return to school and be reviewed and adapted over time in collaboration with the pupil and parents. Pupils must not be prevented from returning to school if their parent is unable to attend a reintegration meeting.

## **8. The Principal's Role in Exclusions**

Only the Principal or acting Principal may exclude a pupil, and only for disciplinary reasons.

Principals should ensure that the school's behaviour policy is regularly reviewed, taking into account the views of stakeholders including pupils, parents, staff and governors, and that it is published on the school website. Schools must also ensure that pupils understand the expectations within the behaviour policy and the potential consequences for non-compliance. This goes beyond publishing the policy on the website and should include proactive work with pupils to secure their understanding. Contact Ark Schools Head of Inclusion for advice on behaviour policy and practice.

Where an excluded pupil has SEND, the school must demonstrate that they have met the requirements of the SEND Code of Practice. This includes relevant assessments to determine whether disruptive behaviour could be caused by underlying unmet needs, and a range of provision and support put in place to meet any need. If a pupil has an Education, Health and Care Plan (EHCP) and they are at risk of permanent exclusion, the school should request an emergency EHCP review.

Where any pupil has received multiple suspensions or is approaching the legal limit of 45 school days of suspension in an academic year, the Principal should consider whether exclusion is providing an effective sanction. Schools should engage with all preventative

measures that are appropriate and available before excluding pupils and consider interventions set out in the [DfE Behaviour in Schools \(September 2022\)](#) guidance.

Permanent exclusion should only be used as a last resort either where a single incident is so serious there is no alternative available or in the case of multiple incidents where all alternatives have been considered and all strategies to change behaviour have failed. It must also be demonstrated that allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the academy. To safeguard this practice, all Ark Schools Principals must discuss their decision to permanently exclude a pupil with their Regional Director before issuing the permanent exclusion. A permanent exclusion checklist is available on the Ark Library to support Principals in decision-making and ensure statutory compliance and must be completed and shared with the Regional Director and Governance Team.

## **9. Duty to Inform All Relevant Parties**

### 9.1 Parents and Pupils over 18 years old

Parents/carers must be informed **without delay** of the length and type of exclusion, the reason(s) for exclusion<sup>2</sup> and of their right to make representations to the governors. Initially, this notification should be by telephone or in person so the parent can ask questions if needed and then followed by a letter. In all circumstances, the parent/carer must be informed in writing **before the afternoon period of the first day of exclusion**, regardless of the duration of exclusion. All schools must use the template letters with attached exclusions guidance for parents, available on the Ark Library, as these are compliant with current statutory regulations. Pupils over 18 must be informed in writing and have the right to appeal on their own behalf.

Schools have a duty of care for the welfare of all pupils and so must advise parent(s)/ carer(s) of an exclusion *prior* to the pupil being sent off-site.

Where alternative provision will be arranged from day 6, parents must be informed of the start date, name and address of the provider, start and finish time, and name of the person the pupil should report to on the first day. **This information must be provided at least 48hrs before the provision is due to start.**

### 9.2 Ark Schools

Schools must, **without delay**, inform the LGB Clerk to Governors of any exclusion that will require automatic governor review, including

- permanent exclusions
- suspensions that result in the pupil being suspended for more than 15 days in one term
- suspensions that will result in the pupil not sitting a public examination or national curriculum test

### 9.3 Local Authority (LA)

Schools must inform the LA of any pupil suspension or permanent exclusion **without delay** in writing, and confirm the type and length of exclusion, start date, reason for exclusion, dates when pupil must not be present in a public place and alternative provision arrangements. Some LAs may have specific forms to complete for reporting exclusions that schools should follow.

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<sup>2</sup> The reasons for exclusion must give brief detail of the alleged behaviour, for example 'swearing at a member of staff', and not just state 'breach of behaviour policy'.

In the case of permanent exclusion, if the school's LA is different to the pupil's home LA, they must also be informed **without delay**.

#### 9.4 Social Worker and Virtual School Headteachers

If a pupil has a Social Worker (SW) they should be notified **without delay** of the pupil's period of exclusion and reason for it. If the exclusion requires review by the governing body, the SW should be informed of the review meeting date and invited to attend, if they wish to do so.

If the pupil is a Looked After Child (LAC), the LA has a corporate parent role and the school should notify the Virtual School Headteacher (VSH) of the pupil's period of exclusion and reason for it **without delay**. Alternative provision must be in place for an excluded LAC pupil from day 1 and the VSH can provide advice and support for this. If the exclusion requires review by the governing body, the VSH should be informed of the review meeting date and invited to attend, if they wish to do so.

If the pupil is previously looked after (PLAC) the VSH can provide advice and information on request but there is no requirement to notify them of the exclusion.

### 10. Reporting and Recording Exclusions

Schools must follow statutory guidance to ensure the relevant parties are informed when a pupil is permanently excluded. They must also ensure all exclusions are recorded on the school's Management Information System (MIS) and that the Governance Team are informed of any occasions when a governor review panel is required. Data on suspensions, permanent exclusions and pupil moves must also be reported to governors in the Principal's Report at the Local Governing Body meeting. Staff and Governors must comply with all relevant data protection requirements when processing, sharing and storing personal data as part of the exclusions process.

### 11. Review of the Decision to Exclude

For any exclusion, parents/carers have the right to make their representations to governors and governors may direct the reinstatement of the pupil. The type and duration of exclusion determines the process and timeframe for governor review.

- i. All permanent exclusions **must** be reviewed by a panel of governors **within fifteen school days** of the exclusion being issued.
- ii. Suspensions, of any duration, that would result in a pupil missing a public examination or national curriculum test **must** be reviewed by a governor panel **as soon as practically possible and at maximum within fifteen school days**. In exceptional circumstances, the Chair of Governors may review the exclusion on behalf of the governing body.
- iii. Suspensions that result in a pupil being excluded for more than fifteen days in one academic term **must** be reviewed by a panel of governors **within fifteen school days** of the exclusion being issued.
- iv. *If requested by the parent/carer*, a suspension of six to fifteen days must be reviewed by a governor panel **within fifty school days** of the exclusion being issued.
- v. *If requested by the parent/carer*, for a suspension of five or fewer days, governors must consider any representations made by the parent/carer but do not have to meet to do so and cannot direct reinstatement.

Under its Articles of Association, Ark Schools Board delegate the review of pupil exclusions to the school's Local Governing Body and a subcommittee of the Ark Schools Board, The Resolutions Committee, constituted from members of Local Governing Bodies from across all Ark schools. All governors who review exclusions must have received specific training from the central Governance Team prior to participating on a panel. A panel will usually be constituted of three<sup>3</sup> governors and a member of the governance team will be the panel clerk (usually the school's Clerk of Governors or Regional Officer). One governor on the panel will be designated as the Chair of the meeting and, in the event of a request for external independent review (see section below entitled *Independent Review Panel*), will represent the panel at that independent review meeting. The Principal cannot be a member of the panel.

Members of the panel must be impartial, unprejudiced, have taken no previous part in the specific case, and have no personal interest in its result. As standard practice, Principals must not discuss individual exclusions with members of their governing body as cases may be referred to them for review.

The review panel may either **decline to reinstate the pupil** (upholding the Principal's decision) or **direct reinstatement of the pupil**. The panel cannot convert one type of exclusion into another, for example; they cannot 'downgrade' a permanent exclusion into a suspension.

Where relevant, additional parties may be invited to attend the governor review meeting to provide context and background information for governors, such as the pupil's SW, VSH and a LA representative. The parent and pupil must always be invited to attend the governor review meeting, and reasonable adjustments should be made to encourage their attendance. Parents may be accompanied, on request, by a friend or representative.

After the governor review hearing, the Clerk will inform the parties in writing of the outcome, with reasons for the governors' decision. Decisions are communicated as soon as possible, and every attempt is made to do this within 5 working days.

## **12. Standard of Review and Evidence**

At all stages in the exclusion process, from the Principal's initial decision to the independent review panel, the civil standard of a 'balance of probability' is used when considering facts and evidence. This has a lower threshold than the criminal standard of review, 'beyond all reasonable doubt'.

The Principal or governing body must ensure that all parties have an opportunity to make their representations and have their views heard before any decision is made. It is important that the evidence presented demonstrates this or gives a reasonable explanation for why another party's views are not available. Additional guidance is available to Principals on gathering evidence and the meeting paperwork.

## **13. Review Meetings**

All evidence and meeting paperwork should be distributed to all parties at least five working days before the hearing. In exceptional circumstances and at the discretion of the Chair, new evidence may be introduced at the hearing however all parties must be given reasonable time to review it.

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<sup>3</sup> In exceptional circumstances and usually to meet statutory timeframes, the Resolutions Committee may convene a panel of two governors to review a pupil exclusion. Further information is available in the Resolutions Committee Terms of Reference, available from the governance team.



No party should be in the presence of governors unless the other party is also present. Both the school and parents/carers should enter and leave the review meeting at the same time and must not have any private discussion with governors before the meeting or until after governors have reached a formal decision.

#### **14. Independent Review Panel**

If a permanent exclusion is upheld, parents/carers must be informed of their right to seek an independent review of the governors' decision and the deadline for seeking such a review. They also have the right to request the attendance of a SEND expert at the Independent Review Panel meeting. The request for an independent review panel must be submitted within fifteen school days from receiving the review panel's decision.

Ark Schools will engage the services of an external clerking agency to arrange and clerk the Independent Review Panel. The independent review is normally attended by the Principal and Chair of the original governor meeting. The Clerk of the governor review meeting may attend but plays no formal part in proceedings. On occasion it may be considered appropriate for the school to have legal representation. This will be arranged by Ark Schools.

The Independent Review Panel cannot direct a governing body to reinstate a pupil. It may:

- a) uphold the exclusion;
- b) recommend that the governing body reconsider its decision; or
- c) quash the original governing body's decision and direct governors to reconsider its decision.

In the latter case, the Independent Review Panel will usually order that the school must make a payment to the Local Authority of £4,000 if it does not offer to reinstate the pupil.

#### **15. Parallel police proceedings**

The Principal does not have to delay issuing an exclusion if criminal proceedings are also being conducted. The Principal's decision is on the balance of probability (*not* beyond all reasonable doubt) and is made on the evidence available to them so if this is sufficient to issue the exclusion they may do so. The governing body must not delay a hearing beyond the statutory time limit because of police proceedings and must make a decision on the balance of probability based on the evidence available to them at the review meeting. If a permanent exclusion is upheld in these circumstances, the parent has 15 days to request an independent review in the normal way.

#### **16. Other relevant legislation and guidance**

The principal legislation, guidance and regulations to which this guidance relates is:

- [Education Act 2002, as amended by the Education Act 2011](#);
- [School Discipline \(Pupil Exclusions and Reviews\) \(England\) Regulations 2012](#);
- [Education and Inspections Act 2006](#);
- [Education Act 1996](#);
- [Education \(Provision of Full-Time Education for Excluded Pupils\) \(England\) Regulations 2007, as amended by the Education \(Provision of Full-Time Education for Excluded Pupils\) \(England\) \(Amendment\) Regulations 2014](#);
- [Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement. Guidance for maintained schools, academies, and pupil referral units in England \(July 2022\)](#);

- [Working together to improve school attendance. Guidance for maintained schools, academies, independent schools, and local authorities \(May 2022\)](#)
- [SEND code of practice: 0 to 25 years](#)
- [Special Educational Needs and Disability Regulations 2014 \(Part 4\)](#)
- [Equality Act \(2010\)](#)