



Brownhill
LEARNING COMMUNITY

EXCLUSIONS POLICY

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Brownhill Learning Community is a loose federation of Brownhill Special School and Rochdale Pupil Referral Service and will be referred to as BLC in this policy.

1. Rationale...

This policy deals with the policy and practice which informs the BLC's use of exclusion. It is underpinned by the shared commitment of all members of BLC to achieve two important aims:

- Ensure the safety and well-being of all members of BLC, and to maintain an appropriate educational environment in which all can learn and succeed.
- Realise the aim of reducing the need to use exclusion as a sanction.

2. Introduction...

The decision to exclude a student will be taken in the following circumstances:-

- In response to a serious breach of the BLC's Behaviour Policy;
- If allowing the student to remain on site would seriously harm the education or welfare of the student or others in the BLC.

Exclusion is an extreme sanction and is only administered by the Headteacher (or, in the absence of the Headteacher, one of the Deputy Headteachers).

Exclusion, whether fixed term or permanent may be used for any of the following, all of which constitute examples of unacceptable conduct, and are infringements of the BLC's Behaviour Policy:

- Verbal abuse to Staff and other adults
- Verbal abuse to students
- Physical abuse to/attack on Staff
- Physical abuse to/attack on students
- Indecent behaviour

- Damage to property
- Misuse of illegal drugs
- Misuse of other substances
- Theft
- Serious actual or threatened violence against another student or a member of staff.
- Sexual abuse or assault.
- Supplying an illegal drug.
- Being in possession of an offensive weapon.
- Using an offensive weapon.
- Being in possession of a firework.
- Setting a firework off.
- Arson.
- Unacceptable behaviour which has previously been reported and for which BLC sanctions and other interventions have not been successful in modifying the student's behaviour.

This is not an exhaustive list and there may be other situations where the Headteacher makes the judgment that exclusion is an appropriate sanction.

3. Exclusion Procedure

- Most exclusions are of a fixed term nature and are of short duration (usually between one and five days).
- The DFE regulations allow the Headteacher to exclude a student for one or more fixed periods not exceeding 45 school days in any one school year.
- The Governors have established arrangements to review promptly all permanent exclusions from the BLC.
- The Governors have established arrangements to review fixed term exclusions which would lead to a student being excluded for over five days but not over 15 days in a school term where a parent has expressed a wish to make representations. (See Point 11)
- Following exclusion parents/carers are contacted immediately where possible. A letter will be sent by post giving details of the exclusion and the date the exclusion ends. Parents have a right to make representations to the Governing Body and the LA as directed in the letter.
- A return to school meeting will be held following the expiry of the fixed term exclusion and this will involve a member of the Senior Management Team and other staff where appropriate.
- A fixed term exclusion can take the form of an "internal" exclusion, with the student being excluded to another site. However, in some circumstances, either because of the severity of the incident or because of practical or logistical constraints, such an exclusion will result in the student being required to remain at home.
- During the course of a fixed term exclusion where the student is to be at home, parents/carers are advised that the student is not allowed on site, and that daytime supervision is their

responsibility, as parents/guardians. In line with legislation he/she is not allowed to be present in a public place during school hours without reasonable justification. Work will be set by BLC for the period of exclusion.

4. Permanent Exclusion

The decision to exclude a student permanently is a serious one. There are two main types of situation in which permanent exclusion may be considered.

- A final, formal step in a concerted process for dealing with disciplinary offences following the use of a wide range of other strategies, which have been used without success. It is an acknowledgement that all available strategies have been exhausted and is used as a last resort.
- Where there are exceptional circumstances and it is not appropriate to implement other strategies and where it could be appropriate to permanently exclude a student for a first or 'one off' offence. These might include:
 - Serious actual or threatened violence against another student or a member of staff.
 - Sexual abuse or assault
 - Supplying an illegal drug
 - Carrying an offensive weapon *
 - Arson

BLC, in line with its protocols, will consider police involvement for any of the above offences.

* Offensive weapons are defined in the Prevention of Crime Act 1953 as "any article made or adapted for causing injury to the person; or intended by the person having it with him for such use by him."

These instances are not exhaustive but indicate the severity of such offences and the fact that such behaviour seriously affects the discipline and well-being of the BLC.

5. Informing the Local Authority...

The Headteacher will immediately notify the Local Authority & Governors of:

- A permanent exclusion, including when a fixed-period exclusion is made permanent
- Exclusions which would result in the pupil being excluded for more than 5 school days in a term
- Exclusions which would result in the pupil missing a public examination.

For all other exclusions the Local Authority and Governors will be informed once a term.

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

6. General factors BLC considers before making a decision to exclude

Exclusion will not be imposed instantly unless there is an immediate threat to the safety of others at BLC or the student concerned. Before deciding whether to exclude a student either permanently or for a fixed period the Headteacher will:

- Ensure appropriate investigations have been carried out.
- Consider all the evidence available to support the allegations taking into account the student behaviour, equal opportunity and Race Equality Policies.
- Allow the student to give her/his version of events.
- Check whether the incident may have been provoked for example by bullying or by racial or sexual harassment.

If the Headteacher is satisfied that on the balance of probabilities the student did what he or she is alleged to have done, exclusion will be the outcome.

7. Exercise of discretion

In reaching a decision, the Headteacher will always look at each case on its own merits. Therefore, a tariff system, fixing a standard penalty for a particular action, is both unfair and inappropriate. In considering whether permanent exclusion is the most appropriate sanction, the Headteacher will consider:

- the gravity of the incident, or series of incidents, and whether it constitutes a serious breach of BLC's Behaviour Policy.
- the effect that the student remaining in BLC would have on the education and welfare of other students and staff.

In line with its statutory duty, these same two tests of appropriateness will form the basis of the deliberations of the Governors' Pupil Discipline Committee, when it meets to consider the Headteacher's decision to exclude. This Committee will require the Headteacher to explain the reasons for the decision and will look at appropriate evidence, such as the student's school record, witness statements and the strategies used by the BLC to support the student prior to exclusion.

8. Alternatives to Exclusion

BLC actively pursues a policy of using alternatives to both Fixed Term and Permanent exclusions in the following ways:

- As mentioned above, a fixed term exclusion, dependant upon the circumstances may be served on another site. In such cases the exclusion will not appear on the student's record.
- A move to another site may be considered. However, in cases of extreme violence to staff or pupils this may not be deemed appropriate.
- A move to alternative provision may be considered ie on-line provision, off site providers, etc. This may be problematic if the issue is violence to others.
- Alternative timetabling requiring the pupil to attend one of the sites and outside the normal school day.
- BLC works with other secondary schools to undertake managed moves where such a course of action would be of benefit to all concerned. However, where a pupil has already had a managed move this course of action may not be advisable.

9. Behaviour Outside School

Students' behaviour outside BLC on school "business" for example school trips and journeys, away school sports fixtures or a work experience placement is subject to the BLCs Behaviour Policy. Inappropriate behaviour in these circumstances will be dealt with as if it had taken place on site. For behaviour outside BLC but not on school business this policy will still have effect if there is a clear link between that behaviour and maintaining good behaviour and discipline among the student body as a whole. If students' behaviour in the immediate vicinity of the site or on a journey to and from the site is poor and meets the criteria for exclusion then the Headteacher may decide to exclude.

10. Drug Related Exclusions

In making a decision on whether or not to exclude for a drug-related offence the Headteacher will have regard to BLC's published policy on drugs and will also seek advice from the LA. The decision will depend on the precise circumstances of the case and the evidence available. In some cases fixed term exclusion will be more appropriate than permanent exclusion. The Headteacher will make a judgment set against the criteria in the BLC's Alcohol & Drugs Education Policy.

11. Appealing the Exclusion

The Governing Body should set up a Pupil Discipline Committee to:

- consist of either three or five governors (not including the headteacher). If a governor has a connection with either the pupil or the incident, they should not serve at the meeting (i.e. consider carefully whether it is appropriate for teacher governors to be included);
- review the use of exclusions within the school;
- consider representations from parents/carers;
- decide whether or not to confirm exclusions of more than five days in a school term, including permanent exclusions;
- consider whether or not to confirm exclusions where a pupil would miss an opportunity to take a public examination;
- appoint a clerk to the governors' Pupil Discipline Committee to handle the administrative arrangements for considering exclusions (the clerk should be familiar with the new DfE guidance and the relevant school policies).

In setting up the meeting the clerk to the Pupil Discipline Committee should:

- for an exclusion of fewer than 5 days in the term arrange the date as soon as possible if representations have been received from the parent(s)/carer(s);
- for an exclusion of fewer than 5 days in the term that causes the pupil to miss sitting a public examination try to meet before the public examination;
- for an exclusion of between 6 and 15 school days inclusive arrange a meeting date between the 6th and 50th school day, only if this is requested by a parent(s)/carer(s);
- for an exclusion of over 15 school days arrange the meeting between the 6th and 15th school day;
- for a permanent exclusion arrange the meeting between the 6th and 15th day after receiving notice from the Headteacher of the exclusion;
- ask for all written statements in advance of the meeting and send to parent(s)/carer(s) and ensure that all the written statements and a list of all those who will be present at the meeting, are circulated to all parties attending, before the meeting. All written statements should be attributed and signed unless the school has good reason to wish to protect the anonymity of pupils. These statements will include the report of the incident(s) resulting in the exclusion and any background reports to be used.

At the meeting itself the following protocol should be observed:

- the Chair of the Pupil Discipline Committee should call the Headteacher or Deputy, parent(s)/carer(s) and any representatives, the pupil and the LA Officer (only Permanent Exclusions) to join the meeting all at the same time. The Headteacher must not have previously discussed the case with any committee member;
- the Chair welcomes everybody to the meeting, introduces everybody and explains the procedure to be followed:
- the Headteacher or Deputy is asked to present his/her case giving the reason(s) for the exclusion and the circumstances surrounding the decision to exclude. The Headteacher or Deputy should also outline the steps taken to try and avoid the exclusion;
- the parent(s)/carer(s) or their representative will then have the opportunity to question the Headteacher on his/her statement;
- the members of the Pupil Discipline Committee may then ask questions of the Headteacher or Deputy
- the parent(s)/carer(s) or their representative will then be given the opportunity to give their statement to support their case;
- the Headteacher or Deputy and/or committee members may then question the parent(s)/carer(s) or representative and the pupil, if present, in order to clarify any of the issues raised;
- following this the LA Officer (only permanent exclusions) will be invited to ask questions of both parties and give the Authority's views on the appropriateness of the exclusion (only present for permanent exclusions but can be invited for fixed period exclusions);
- finally, all parties will be invited to 'sum-up'. Parent(s)/carer(s) should always be given the opportunity to have the 'last word';
- the Pupil Discipline Committee must be satisfied that all possible strategies (including a Pastoral Support Programme or Parenting Contract in the case of permanent exclusions) have been tried and have failed. The committee must also consider whether, in the case of a pupil with a statement of SEN, the statement should be reviewed rather than resorting to a permanent exclusion;
- the Chair's role is to make sure that all the necessary information has been provided so that the Pupil Discipline Committee may make an informed decision on the exclusion;
- once the Chair is satisfied that the parties involved have completed their presentation, she/he will close the meeting and ask everyone, apart from the Committee members and the Clerk, to leave the room;
- the Pupil Discipline Committee, under the guidance of the Chair, should consider all the evidence they have heard and decide, if appropriate, whether to reinstate the pupil. In reaching their decision the Pupil Discipline Committee should:
 - consider the parent(s)/carer(s) and the LA's statements;
 - have regard to the guidance on the appropriate use of exclusions;
 - in the case of a fixed period exclusion, consider whether the Headteacher has tried sufficient approaches to improve a pupil's behaviour before resorting to exclusion;

- in the case of a permanent exclusion, satisfy itself that all possible strategies to improve a pupil's behaviour were tried and had failed. Strategies should include those in DfE guidance, including a Pastoral Support Programme.

If a Headteacher has not used exclusion in line with the DfE guidance, the Pupil Discipline Committee should normally direct re-instatement.

If the Pupil Discipline Committee decides to direct re-instatement it should:

- discuss with the LA whether extra short-term support could be made available to help to ensure successful reintegration;
- notify the parent(s)/carer(s) and the LA of their decision within one school day of the meeting, giving the reasons.

The Pupil Discipline Committee may not attach any conditions to the re-instatement of the pupil.

If the Pupil Discipline Committee confirms the Headteacher's decision to exclude it should:

- in the case of a fixed period exclusion be satisfied that there are satisfactory arrangements for the pupil to continue their education while away from school;
- in the case of a permanent exclusion write within one school day to the parent(s)/carer(s) with a copy to the LA, giving the reasons for the decision;
- explain the parent(s)/carer(s) right to appeal to an independent appeal panel to which they can make oral and written statements;
- give the name and address of the person the parent(s)/carer(s) should contact if they wish to appeal, explaining that any notice of appeal should explain the grounds of the appeal and stating the last date for giving notice of appeal (15 school days from the Pupil Discipline Committee's decision).

The parent(s)/carer(s) have the right to appeal to an Independent Appeal Panel, (even if they did not attend the Pupil Discipline Committee meeting).

12. Responsibilities of the LA

Advising the Pupil Discipline Committee

The LA's role is to give their view on the appropriateness of the exclusion.

The LA can make a statement to the Pupil Discipline Committee when they are considering whether to uphold exclusion, for example about how other schools in the Authority have responded to similar incidents.

Advising the Parent(s)/Carer(s)

If a Pupil Discipline Committee decides not to re-instate a permanently excluded pupil the LA must also write within three working days of the Pupil Discipline Committee meeting confirming the details of the parent(s)/carer(s)' right to appeal. The LA's letter must tell the parent(s)/carer(s) the last date on which the appeal can be made (i.e. 15 school days from the Pupil Discipline Committee's decision). The letter should give the name and contact details for the clerk to the independent appeal panel and explain that the parent(s)/carer(s) notice of appeal must be in writing and must set out the grounds for the appeal.

Attending the Independent Appeal Hearing

A nominated LA Officer is entitled to attend a meeting of the Independent Appeal Panel and may make oral or written representations.

Setting up an Independent Appeal Panel to Hear Appeals Against a Permanent Exclusion

Within Rochdale LA the Committee Services Section of the Corporate Services Department has undertaken this task in order that all parties can be confident in the independence of the panel. The name and address of the officer parents should contact is:

Ms Alison Leonard
Clerk to the Independent Exclusion Appeal Panel
Committee Services
Number One Riverside
Smith Street
Rochdale OL16 1XU
Tel: (01706) 924711

The process and procedures for the Independent Appeal Panel Hearings against a permanent exclusion are stipulated in Schedule 18 to the School Standards and Framework Act 1998. They are also clearly set out in DfE Guidance Part 5: Independent Appeal Panels.

13. **Independent Appeal Hearing...**

13.1 Background

Parent(s)/carer(s) have the right to appeal to an Independent Appeal Panel against any decision made by a Governors' Disciplinary Committee. DfES guidance- Exclusion from Schools and Pupil Referral Units in England 2011, Part 6 – Independent Appeal Panels sets out how the appeals should be handled. The guidance also includes an explanation of the management of appeals and procedures followed after the hearing.

13.2 The Role of the Appeal Hearing

The role of the Independent Appeal is to uphold the decision to exclude; direct immediate reinstatement or reinstatement at some future date; or it may decide that because of exceptional circumstances or other reasons it is not practical to give a direction requiring reinstatement, but that it would be otherwise have been appropriate to give such a direction. In coming to this decision the Independent Appeal Panel has to decide whether the exclusion was in line with the national guidance and the school's discipline and behaviour policy, the interests of the pupil and other pupils and staff at the school and the fairness of the exclusion.

The Pupil Discipline Committee **cannot** put forward new evidence or grounds to support the exclusion. The Independent Appeal Panel is looking at the decision reached by the Disciplinary Committee and the reasons for that. However, if the parent(s)/carer(s) or the LA produces new information, the Pupil Disciplinary Committee can respond.

13.3 The Hearing

Independent Appeals Hearings are independent and generally follow the same sort of format as the Pupil Disciplinary Committee's meeting. The school puts forward their case, which can be questioned by the Independent Appeal Panel and the parent(s)/carer(s). The parent(s)/carer(s) put forward their case and the Independent Appeal Panel and the school can ask questions. The school then sums up as do the parent(s)/carer(s). All parties leave the room, excluding the clerk; the Independent Appeal Panel will then discuss and reach an agreed decision.

The Headteacher would normally represent the school and a nominated member of the Pupil Disciplinary Committee would be invited to attend. The Pupil Disciplinary Committee and the parent(s)/carer(s) may have legal representation. Parents also have the right to request an SEN expert to attend an independent appeal hearing and the LA's to arrange and cover the associated costs of this appointment.

The LA will be present at hearings and may make oral or written representation.

The clerk to an Independent Appeal Panel minutes the proceedings. The minutes are not public documents but should be retained by the LA for a period of at least five years, as they may need to be seen by a court or by the Local Government Ombudsman, should the Independent Appeal Panel process be challenged.

Detailed guidance on the conduct of an Independent Appeal Hearing is set out in DfES Guidance Part 6. Schools should look carefully at this information, particularly in relation to Evidence and Witnesses paragraphs 95 -101 when involved in an Independent Appeal Hearing.

13.4 The Remit of the Independent Appeal Hearing

The Panel can decide to:

- Uphold an exclusion;
- Recommend that the governing body reconsiders its decision, taking account of the findings of the panel, or
- Quash the decision and direct that the governing body considers the exclusion again.

The decision of the Independent Appeal Panel is final and there is no further appeal against the decision. If the parent(s)/carer(s) believe that there has been maladministration in the process, then they can complain to the Local Government Ombudsman but this is a complaint about the process, not about the actual decision. The Local Government Ombudsman might make a recommendation or a fresh hearing, if this was practical the LA would normally be expected to comply

If either the parent(s)/carer(s) or the Pupil Discipline Committee consider that the Panel's decision is perverse, they may apply to the High Court for a judicial review. This must be done promptly and no later than three months of the decision. If it was found that the Panel's decision was unlawful or unreasonable (in narrow legal sense of 'unreasonable', i.e. irrational or perverse), the decision could be quashed and the LA be directed to hold a fresh appeal hearing before a newly constituted panel.

13.5 After the Appeal Hearing

If the parent(s)/carer(s) is unsuccessful in the appeal, the exclusion will stand and the responsibility for arranging education for the excluded pupil rests with the LA. The Fair Access Officer will work with the pupil, parent(s)/carer(s) to gather all the relevant information to help support the family through the re-integration process to appropriate education provision.

If the parent/carer is successful, then the pupil is entitled to return to school. Schools will need to discuss and plan how to manage what could be a difficult situation for a pupil's return to school. Whilst delay is not acceptable, it is reasonable to expect a meeting with the pupil and parent(s)/carer(s) prior to re-entry so that there can be an agreed planned return to school.

Details of exclusion may not be deleted from the pupil's record, even where reinstatement is directed. The Pupil Discipline Committee must, however, comply with any parental request to append their appeal statement to the pupil's record. It will be for the Pupil Discipline Committee to decide what details of the exclusion are included in the pupil's school record in accordance with DfES guidance.