



NEWHAM COMMUNITY
SCHOOLS TRUST

NCST Policy: Exclusions (to be read in conjunction with school-specific operational arrangements)

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Applies to: NCST

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1. NCST Policy - Exclusions

1.1. Introduction

Newham Community Schools Trust (NCST) is committed to serving its community in order to achieve the best possible outcomes for all young people attending its schools. *Exclusion from and of our schools is only ever used as a last resort to address either extreme or persistent unacceptable behaviour. All decisions relating to exclusion are made by the Headteacher or Acting Headteacher in his/her absence, and in accordance with this policy.*

Aims of the Exclusion Policy are to ensure:

- *A balance between the needs of the individual student(s) who may need to be excluded against the needs of the students and adults in the school community;*
- *A fair, equitable and consistent system for exclusions from NCST schools, particularly in relation to ethnic groups;*
- *That exclusion is only used when it is the most appropriate way of supporting the schools' Behaviour for Learning Policies and other local arrangements in place to encourage and support behaviour for learning;*
- *Exclusion is only one of many options used to address unacceptable behaviour;*
- *That exclusion is used primarily as a strategy for supporting a student in changing their behaviour;*
- *That fixed term exclusions are used in the appropriate circumstance.; and*
- *That permanent exclusions are used in the appropriate circumstance.*

In order to achieve these aims, all NCST schools will seek to:

- *Provide an appropriate curriculum to meet the individual needs of every student ensuring appropriate stretch and challenge for all;*
- *Ensure that the school's Behaviour for Learning Policy and other local arrangements are implemented effectively;*
- *Apply suitable rewards and sanctions;*
- *Provide effective pastoral support for students;*
- *Provide effective additional support for students;*
- *Involve parents, persons with parental responsibility and, where appropriate, community organisations in order to support students;*
- *Monitor exclusions carefully;*
- *Provide appropriate training for staff on Behaviour for Learning;*
- *Provide appropriate training for staff on the issues pertaining to the overrepresentation of ethnic minority and SEND students (or other over represented groups) in the school's exclusions figures; and*
- *Ensure that exclusions are consistently applied.*

1.2. Aims

This Trust policy aims to ensure that at all NCST schools:

- The exclusions process is applied fairly and consistently;
- The exclusions process is understood by governors, staff, parents and pupils;
- Pupils in school are safe and happy; and
- Pupils do not become NEET (not in education, employment or training).

1.3. Legislation and statutory guidance

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

It is based on the following legislation, which outline the powers that Trusts and schools have to exclude pupils:

- Section 52 of the [Education Act 2002](#), as amended by the [Education Act 2011](#)
- [The School Discipline \(Pupil Exclusions and Reviews\) \(England\) Regulations 2012](#)
- In addition, the policy is based on:
- Part 7, chapter 2 of the [Education and Inspections Act 2006](#), which looks at parental responsibility for excluded pupils
- Section 579 of the [Education Act 1996](#), which defines 'school day'
- The [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](#)

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

1.4. The decision to exclude

Only the Headteacher, or Acting Headteacher, can exclude a pupil from school. A permanent exclusion will be taken as a last resort. Examples of

All NCST schools are aware that off-rolling is unlawful. Ofsted defines off-rolling as:

"...the practice of removing a pupil 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 pupil."

We are committed to following all statutory exclusions procedures to ensure that every young person at our schools receives an education in a safe and caring environment.

A decision to exclude a pupil will be taken only:

- In response to serious or persistent breaches of the Behaviour Policies in place at our schools, and
- If allowing the pupil to remain in school would seriously harm the education or welfare of others.

Before deciding whether to exclude a pupil, 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 pupil to give their version of events; and
- Consider if the pupil has special educational needs (SEN)

1.5. Definition

For the purposes of exclusions, a 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.

1.6. Criteria for exclusions

In order to ensure that all NCST schools apply this Policy fairly and equitably, this section outlines a number of situations which will usually result in an exclusion (please note that this is not an exhaustive list):

- *Where allowing the student to remain in school would seriously harm the education or welfare of the student or others in the school;*
- *A physical assault on a member of staff which is either deliberate or reckless;*
- *Serious and deliberate physical assault on another student(s);*
- *Using or supplying or threatening to use a weapon in school to endanger others;*
- *Serious or persistent breaches of the Behaviour for Learning Policy; or*
- *Serious acts of vandalism.*

Exclusion will also be considered for:

- *Abuse or distribution of alcohol, drugs or solvents on school premises or in school time (as per the local Substance Abuse Policies in place at schools);*
- *Aggressive behaviour;*
- *Any form of disruptive behaviour that hinders the learning of others;*
- *Assaults on other students;*
- *Behaviour which is dangerous beyond control;*
- *Bringing a weapon into school which could endanger others or property;*
- *Bringing the school or the Trust into disrepute;*
- *Bullying and extortion;*

- *Damage to school property or the property of others;*
- *Fighting;*
- *Racial, sexual or any other form of harassment;*
- *Refusing to accept the authority of the school or the Trust;*
- *Malicious accusations against staff*
- *Theft;*
- *Verbal abuse or undermining of staff, or lack of cooperation;*
- *Inappropriate use of texting, e-mailing and other technology;*
- *Continued anti-social behaviour despite all other sanctions;*
- *Being involved in a criminal offence out of school.*

In deciding on exclusion and its duration the following factors will be considered:

- *The nature and circumstances of the offence;*
- *The previous history of the student;*
- *Previous exclusions and disciplinary action;*
- *The effects of the exclusion on other students and the student concerned;*
- *The recommendations of relevant members of staff;*
- *The attitude and response of the student concerned;*
- *The strategies already implemented to support the student.*

1.7. Roles and responsibilities

1.7.1. The Headteacher

Informing parents

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

- 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 School's Exclusions Committee and how the pupil may be involved in this;
- How any representations should be made; and
- Where there is a legal requirement for the School's Exclusions Committee to meet to consider the reinstatement of a pupil, 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; and
- Any information required by the pupil 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 school's local governing body, the Trust, and the local authority

The Headteacher will immediately notify the local governing body of the school from which the pupil has been excluded and the local authority (LA) of:

- A permanent exclusion, including when a fixed-period exclusion is followed by a decision to permanently exclude a pupil;
- Exclusions which would result in the pupil being excluded for more than 5 school days (or more than 10 lunchtimes) in a term;
- Exclusions which would result in the pupil missing a public examination; and
- For a permanent exclusion, if the pupil lives outside the LA in which the school is located, the Headteacher will also immediately inform the pupil's 'home authority' of the exclusion and the reason(s) for it without delay.

For all other exclusions, the Headteacher will notify the school's local governing body and LA once a term.

1.7.2. The Responsibility of the Local Governing Board to oversee the Exclusions process

The Exclusions Committee of the school which has excluded the pupil has a duty to consider the reinstatement of an excluded pupil if conditions at 1.8 below are met.

Within 14 days of receipt of a request, the School Exclusions Committee will provide the secretary of state with information about any exclusions in the last 12 months (held locally at schools and provided to the Committee).

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

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

The local authority

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

1.7.3. Outside agencies

Outside agencies such as the London Borough of Newham Exclusions Team, Educational Psychology Service, Social Services, or other organisations which support specific groups will be involved during the exclusion process wherever appropriate. Where relevant, referrals for additional external support e.g. from CAMHS may also be made. In incidents where a criminal offence has taken place, the police (usually the Safer Schools' Partnership officer) may be informed by the Headteacher. Any student spoken to or interviewed on the school premises by the police must be accompanied by their parent (or person with parental responsibility) or a member of school staff and with the full knowledge of the Headteacher (unless parents/persons with parental responsibility have given consent for the student to speak to be unaccompanied whilst meeting with the police).

1.8. Considering the reinstatement of a pupil

The School's Exclusion Committee will consider the reinstatement of an excluded pupil 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 pupil's total number of school days of exclusion to more than 15 in a term; or
- It would result in a pupil missing a public examination or national curriculum test.

If requested to do so by parents, the School's Exclusion Committee will consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion if the pupil 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 pupil missing a public examination, the School's Exclusion Committee will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the School's Exclusion Committee will consider the exclusion and decide whether or not to reinstate the pupil.

The School's Exclusion Committee can either:

- Decline to reinstate the pupil, or
- Direct the reinstatement of the pupil immediately, or on a particular date

In reaching a decision, the School's Exclusion Committee 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 pupil's educational record.

The School's Exclusion Committee will notify, in writing, the Headteacher, parents and the Chair of the local governing body of the school at which the pupil is enrolled and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the School's Exclusion Committee 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 (see next section), 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 pupil's SEN are considered to be relevant to the exclusion;
 - That, regardless of whether the excluded pupil has recognised SEN, parents have a right to require the Trust to appoint an SEN expert to attend the review;
 - 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; and
 - 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

1.9. An independent review panel

If parents apply for an independent review, the Trust will arrange for an independent panel to review the decision of the School's Exclusion Committee not to reinstate a permanently excluded pupil.

Applications for an independent review must be made within 15 school days of notice being given to the parents by the School's Exclusion Committee of its decision to not reinstate a pupil.

A panel of 3 or 5 members will be constituted with representatives from each of the 3 categories below. Where a 5-member panel is constituted, 2 members will come from the school governors category and 2 members will come from the Headteacher category.

Category 1: a lay member to chair the panel who has not worked for any school in the Trust in a paid capacity (ie. this can be an NCST trustee or governor at any NCST school, given these roles are unpaid)

Category 2: 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 Headteachers during this time

Category 3: Headteachers or individuals who have been a Headteacher within the last 5 years (ie. any Headteacher at any NCST school)

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

- Are a trustee of NCST or they are a governor at the school at which the exclusion took place (note that governors serving on local governing bodies of other NCST schools can serve on the review panel).
- Are the Headteacher of the excluding school, or have held this position in the last 5 years.
- Are an employee of the Trust based at the excluding school, or at any other NCST school - *unless* they are employed as a Headteacher at an NCST school.
- Have, or at any time have had, any connection with the school at which the exclusion took place, that school's governing board, parents or pupil, 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 School's Exclusion Committee's decision;
- Recommend that the School's Exclusion Committee reconsiders reinstatement;
- Quash the School's Exclusion Committee'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.

1.10. School registers

A pupil'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 pupil 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 School's Exclusions Committee will wait until that review has concluded before advising the school concerned that a pupil's name can be removed from the register.

Where alternative provision has been made for an excluded pupil and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.

Where excluded pupils are not attending alternative provision, code E (absent) will be used.

1.11. Returning from a fixed-term exclusion

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

All NCST schools have local Safeguarding and Behaviour for Learning Policies in place. These are specifically designed in order to best support the pupils at each individual school. When managing any return to school further to a fixed term exclusion, these local arrangements will be followed, which may include the following:

- *Reference to the Home School Agreement, including the support expected from parents;*
- Referral to any school-based student support services;
- Development of a pastoral support plan;
- Referral to the school's Learning Support and SENCo team;
- Referral to school counselling services.

1.12. Monitoring arrangements

The role of the Trust

To ensure consistent and fair application of this policy, the Trust Board has delegated oversight of exclusions to its Standards Committee, which operates as per its terms of reference. Headteachers will ensure that the CEO (or other Trust officer as indicated by the CEO) is informed of all exclusions, exclusion hearings and appeals. The CEO will provide summary information each term to the Standards Committee, and will provide an annual report, including:

- Analysis of the patterns of exclusion across the Trust, including by ethnicity, gender, SEND and Pupil Premium

- Details of any Independent Review Panel outcomes or advice for the school
- Summary of training in relation to exclusions undertaken by Trustees, Governors and Senior Leaders in the Trust
- Further information (including from the list below relating to individual school monitoring) which the Standards Committee considers to be helpful to its understanding of the application of the policy

School level monitoring

At each NCST school, a designated member of staff monitors the number of exclusions every term and reports back to the Headteacher and to the local governing body. Headteachers share this information at the Executive Group, which then reports up to the Trust's Standards Committee. All schools also liaise with the local authority to ensure suitable full-time education for excluded pupils.

Monitoring includes the following:

- *The number of fixed term/permanent exclusions;*
- *The number of repeat fixed term exclusions*
- *Whether the exclusions are being administered within school policy;*
- *The distribution of exclusions across year groups;*
- *The distribution of exclusions across ethnic or other specific groups;*
- *Any identifiable factors relating to disproportionate representation;*
- *Any evidence of discrimination in policy or practice;*
- *The reasons for exclusions.*

This policy will be reviewed every 2 years and shared appropriately.

1.13. Links with other policies

This Trust Exclusions Policy is linked to a number of Trust and school-level policies:

- Trust Safeguarding Policy
- Home School Agreements at each school
- School Behaviour Policies
- School SEN Policy and Information Report
- School Anti-Bullying Policies
- School Positive Handling Policies
- School behaviour management systems and processes

1.14. Appendix 1: Independent review panel training

The 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, governing boards 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