

## **External Exclusions Policy**

**(Last reviewed June 2021, last revised June 2021)**

With reference to:

- The Equality Act 2010 ('the 2010 Act')
- 'Welsh Government Guidance Document 'Exclusion from schools and pupil referral units' no: 171/2015, April 2015
- Special Educational Needs Code of Practice for Wales (Welsh Assembly Government, 2002)
- The Additional Learning Needs Code for Wales 2021 WG21–23

### **Definitions**

'External Exclusion' means the removal of a pupil from the School premises either temporarily or permanently.

'Parents' includes one or both parents, a legal guardian or education guardian.

### **The purpose of this policy is:**

- To ensure the safety and well-being of all members of the School community, and to maintain an appropriate educational environment in which all can learn and thrive.
- School policies on behaviour and exclusions must be widely publicised so that pupils, parents and all school staff are aware of the standards of behaviour expected and the range of outcomes available.

### **1. Circumstances where a pupil may be externally excluded**

The decision to exclude a pupil from School is a very serious one and will not be taken lightly. In most cases of external exclusion there will have been previous discussions and/or correspondence between the parents/carers and the School about the pupil's behaviour.

There are two types of exclusion:

#### **1. Fixed term exclusion (temporary exclusion/suspension)**

This is a temporary exclusion usually for a fixed number of days. The pupil should remain at home during this period (during which time the school should take reasonable steps to set and mark work for the pupil). Most external exclusions are for a fixed term and a short duration

(usually between one and two days). Fixed term exclusions may be, for example, for a period of between 3 and 5 days for very serious indiscipline; or for less serious offences, where repeated School action has proved ineffective.

## **2. Permanent exclusion**

This is where the pupil is permanently removed from the School and the contract between the School and parents in relation to the excluded pupil is terminated.

**A decision to exclude a child for a fixed term or permanently should be taken only:**

1. in response to a serious breach/es, of the School's behaviour policy and/or any related policies such as the 'Student IT Acceptable Use Agreement' and 'Anti-Bullying Policy'
  2. if allowing the pupil to remain in school will seriously harm the education or welfare of the pupils of others in the School
  3. where there has been a build-up of incidents over time, which, in the professional judgement of the School, constitutes a concerted flouting of the School's behaviour policy and where strategies and other interventions have not been successful in modifying the pupil's behaviour.
- Whilst generally exclusion is not an appropriate sanction for minor incidents, in such cases of repeated breach, a fixed term exclusion may be given.

The following constitute examples of a serious breach of the School's Behaviour Policy:

- Physical abuse actual or threatened
- Indecent behaviour
- Damage to property
- Use/possession/supply of illegal drugs
- Misuse of other substances
- Theft
- Sexual abuse or assault
- Racial/sexual harassment
- Carrying an offensive weapon
- Arson

This is not an exhaustive list, and there may be other situations where the School makes the judgement that external exclusion is an appropriate sanction.

**The decision to permanently exclude a pupil** is a serious one and should only be used in exceptional circumstances. There are two main types of situations in which permanent exclusion may be considered.

1. The first is a final, formal step in a concerted process for dealing with behavioural issues following the use of a wide range of other strategies in the School's Behaviour Policy, which have been used without success. It is an acknowledgement that all available strategies have been exhausted, and is used as a last resort. This would include persistent and defiant misbehaviour including bullying/harassment (which would include racist, sexist or homophobic bullying/harassment,) or repeated possession and or use of an illegal drug on School premises.
2. The second is where there are exceptional circumstances and it is not appropriate to implement other strategies and where it could be appropriate to permanently exclude a pupil for a first or 'one off' offence. These might include:
  - Serious actual or threatened violence against another pupil or a member of staff
  - Sexual abuse or assault
  - Supplying an illegal drug
  - Carrying an offensive weapon \*
  - Arson

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 School.

*\* 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."*

### **1.1 involvement and parallel criminal proceedings**

The process of exclusion from school and criminal proceedings can, and should, run parallel. However, in certain circumstances the School's own disciplinary process may need to be postponed pending the outcome of a police investigation. The School should liaise closely with the Police in such cases to avoid jeopardising any Police investigation. In such circumstances, an extended fixed term exclusion may be used (if appropriate).

The School will also take particular care if there are ongoing safeguarding concerns and ensure they follow their safeguarding procedures to avoid jeopardising any external investigation and that appropriate advice is sought before taking any disciplinary decision.

## **1.2 Required removal**

N.B The following cases do not fall within the Exclusions Policy:

- where the School gives contractual notice in accordance with the School's terms and conditions (Registration Contract and Offer Letter)
- where parents are in breach of contract for non-payment of fees, or due to unacceptable behaviour on their part

Such cases will lead to a required withdrawal of the pupil, and are determined in accordance with relevant School policies.

## **2. Exclusion procedure**

### **2.1 Investigation**

Before deciding whether to externally exclude a pupil, either for a fixed term or permanently, a team of the Education Coordinator of the relevant faculty, the Designated Senior Person for Child Protection (DSP) and the Class Teacher/Guardian of the pupil will:

- Ensure appropriate investigations have been carried out, including:
  - where relevant speak to other members of staff and/or pupils. Staff (and pupils where relevant) should prepare a written statements as soon as possible after the incident has taken place
  - interview the pupil/s and allow them to give their version of events in the presence of two staff members. Due regard should be made to any vulnerability and/or ALN the pupil may have, any whether any additional support should be put in place
  - in the presence of the pupil's parents, if they wish (with the agreement the pupil if they are over the age of 18) where the Team considers that the permanent exclusion of a pupil may be warranted
  - co-operate with a police investigation if it is suspected that a criminal offence has been committed
- Consider all the evidence available to support the allegations taking into account the School's behaviour and related policies
- Consider a broader picture of the facts and factors involved, including whether the incident may have been provoked, for example by bullying or by racial or sexual harassment.
- Keep a detailed written records of all stages of the investigation along with the factors involved in the decision.

## 2.2 Fixed Term Exclusions

The team may, after conducting an investigation, exclude a pupil for up to 5 School days but must:

- ensure that the parents have received notice of the exclusion, if possible by telephone or in person, before it takes effect
  - ensure that satisfactory arrangements have been made if the pupil is to be sent home immediately, having due regard to safeguarding issues
  - write to the parents with details including:
    - the length of the exclusion and the date and time when the pupil should return to School
    - the reason for it
    - the requirement of a Return to School Meeting
    - work to be set if the exclusion is for more than one day
  - inform the Chair of College and Chair of Trustees
- 
- During the course of a fixed term exclusion where the pupil is to be at home, parents/carers are advised that the pupil is not allowed on the School premises or at School activities and that daytime supervision is their responsibility as parents/carers.
  - When exclusions exceed one School day, work should be set to be undertaken at home and followed up on the pupil's return to School. An exclusion for part of a day will count as one day of exclusion. It is the parent's/carer's responsibility to ensure that any work sent home is completed and returned to School.
  - A 'Return to School meeting' will be held following the expiry of the fixed term exclusion with the parents/carers and the child and the Class Teacher/Guardian and Education Coordinator of the relevant faculty (or DSP if the Education Coordinator is also the Class Teacher/Guardian)
  - The Team may, in exceptional circumstances and with the consent of the Chair of College and Chair of Trustees, exclude a pupil for a longer period, up to a maximum of 7 school days. If the fixed term exclusion is greater than five days, or an accumulation of exclusions exceed five days, a support strategy will be drawn up in line with the School's behaviour policy.
  - Where a pupil is excluded for a fixed term, any complaint by the pupil's parents should be made under the Schools Concerns and Complaints Procedure, rather than the Exclusions Appeal Procedure
  - The details of all exclusion cases should be treated in the strictest confidence by all those involved in the process.
  - Fixed term exclusions are recorded on an incident form and filed along with the written record of investigation.

## 2.3 Permanent Exclusions

Where the Team considers that the permanent exclusion of a pupil may be warranted in the circumstances, the Team will conduct an investigation in accordance with the 'Investigation' section 2.1 above. In some cases, it will be appropriate to exclude the pupil for a period not exceeding 5 school days whilst the investigation is conducted, as a neutral act to allow investigation to take place; and/or to give opportunity for a reasoned decision. In this case the Team should

- obtain the consent of the Chair of College and Chair of Trustees prior to the exclusion taking effect. This consent should be confirmed in writing in due course
- ensure that the pupil's parents have been notified of the exclusion, if possible by telephone or in person, before it takes effect
- ensure that satisfactory arrangements have been made if the pupil is to be sent home immediately, having due regard to safeguarding issues
- write to the pupil's parents stating that the pupil has been excluded and clearly state that the reason for the fixed term exclusion is *"to allow investigation into an incident which may result in permanent exclusion"*. The letter should not state that the fixed term exclusion is, in itself, sanction for the incident under investigation.

If the Team considers that the investigation cannot be completed within the period of the initial exclusion, they may extend the exclusion by no more than a further period of 10 school days. They must repeat the steps detailed above including a further notification to parents.

Appropriate work should be given from the outset. In particular any pupil completing their NZCSE should be provided with clear direction or an appropriate programme of study, including the marking of work, where appropriate. Details of work set or relevant study guidance given should be included in the record of the exclusion process and made available to the Appeal Panel if an appeal is lodged against permanent exclusion.

After completion of the investigation the Team will:

- discuss their conclusions and recommendation with the Chair of College and Chair of Trustees and agree a way forward
- meet with the pupil's parents to discuss the outcome of the investigation. Minutes will be taken during this meeting and all parties will receive a copy of these
- if a pupil's behaviour has become untenable then this will be discussed with the parents and the parents will be informed in writing that a meeting to consider permanent exclusion will follow

### **2.3.1 Disciplinary Meeting**

A formal disciplinary meeting should always follow where the investigation has identified a case for which permanent exclusion is a possible outcome.

The Chair of College should convene a meeting to consider the matter and invite the pupil and their parents to attend. The Chair of Trustees should also be kept informed (but should not take part in the process). The Chair of College should invite the DSP and may invite another member of College to attend. Where a staff member has a connection with the pupil or the incident which might reasonably raise doubts about their ability to act impartially, they should not serve at that particular meeting. The meeting members may be advised by key people within the School including (where appropriate) the Additional Learning Needs Coordinator (ALNCo) and Education Coordinators.

Prior to the meeting, certain documents should be made available to the pupil (as appropriate to their age and understanding) and their parent/s, wherever possible. These documents may include, but are not limited to:

- a statement setting out the points of issue
- written witness statements
- notes of the evidence in support of the issue
- the relevant School policies and procedures and the School's Exclusions Policy
- the investigation report

Due regard must be had to confidentiality owed to other pupils and/or families and compliance with the School's data protection obligations. Documents may therefore require redaction or a summary provided instead. Any written submission provided by, or on behalf of the pupil, should be passed to the Chair of College before the disciplinary meeting at least one full working day before the meeting to allow sufficient time for the Chair to review.

The pupil should be in attendance throughout the disciplinary meeting (taking into account the pupil's age and understanding) and may be accompanied by a trusted adult (which may be a member of staff). The pupil should be allowed and encouraged to speak, and the Chair of College should consider how the pupil may feed in their views by other means if appropriate. The pupil's parent/s may be accompanied by a friend or relation, should they wish. Where parents are separated or divorced, consideration should be given to whether both parents should be invited. This will normally depend on who has legal residence of the child. Parents may take their own notes of the meeting but electronic recordings should not be permitted. The Chair of College should be informed of all attendees at least 24 hours before the disciplinary meeting.

The process to be followed at the disciplinary meeting shall be determined by the Chair of College but should be as informal as possible.

- The meeting will be conducted in a manner appropriate to the age, understanding and maturity of the pupil involved, taking into account any additional needs of the pupil in all circumstances.
- Notes should be taken by the School during the disciplinary meeting. A copy of the notes can be provided to the parents, if they request this.
- The pupil should have an opportunity to provide their account and both the pupil and their parents should be able to ask questions. The pupil/parents should also be able to address the Chair of College on the issue of sanctions.
- If the Chair of College considers that further investigation is needed, the disciplinary meeting may be adjourned, and the reason for this adjournment should be explained to the pupil and their parents.

The pupil's previous disciplinary history may be taken into account, when reaching a decision. Due regard must be had to any ALN the pupil may have and whether this may have contributed to the misconduct in question. Consideration must also be had to the School's obligations under the Equality Act 2010 where the pupil may be considered as having a disability.

After the Disciplinary Meeting the Chair of College will send a confidential written report and recommendation to the Chair of Trustees and all College members.

The Chair of College's recommendation will be either to:

- allow the pupil to return to School immediately if, following investigation, the pupil is deemed not to have behaved inappropriately.
- allow the pupil to return to School immediately with a written warning of the effect of further misconduct if, following investigation, the pupil is deemed to have behaved inappropriately.
- allow the pupil to return to School on a specified date (where possible, this should not be more than 15 school days after the start of the fixed period exclusion), with a written warning of the effect of further misconduct if, following investigation, the pupil is deemed to have behaved inappropriately and this behaviour warrants a fixed period exclusion.
- extend a fixed term exclusion - this can be useful if the pupil would benefit from additional time outside of School to visit health care professionals or gain additional support from external agencies.



- Agreed Phased Return - where parents and the School agree, a phased return, up to 3 weeks, where the pupil can be re-integrated within the School slowly to assess behaviour and impact on others. A structured behavioural plan and review period would be agreed and adhered to. Failure to meet this plan would result in permanent exclusion.
- exclude the pupil from school permanently if, following investigation, the pupil is deemed to have behaved inappropriately and this behaviour warrants permanent exclusion.

Within 24 hours of receipt of the written report, the Chair of College will meet with College members to confirm their agreement of the recommendation. Where a College member has a connection with the pupil or the incident which might reasonably raise doubts about their ability to act impartially, they should not take part. The Chair of Trustees will confirm their agreement in writing to the Chair of College, together with the recommended actions. If the Chair of Trustees or College itself does not agree with the recommendation, the matter will be discussed further between the two Chairs with a view to reaching a resolution.

### **2.3.2 Following the decision**

- Following receipt of College and the Chair of Trustees' agreement the Chair of College will:
  - inform the parents immediately, by telephone or in person if possible, of the result of the investigation and of the decision
  - confirm the decision in writing to the parents including the disciplinary sanction that has been applied, the reasons for the decision (with reference to appropriate School policy and details of any relevant previous warnings, fixed period exclusions or other disciplinary measures)
  - offer the opportunity to discuss the outcome, either on the telephone or in person
- If the decision is that the pupil should be excluded permanently, the Chair of College will also:
  - **Have the option of** consulting with the pupil's parents to determine the appropriate leaving status for that pupil i.e. permanent exclusion, required removal or voluntary withdrawal by the parents. Some parents may, after due consideration, prefer to voluntarily withdraw their child from the School rather than deal with the consequences of a permanent exclusion. In this case the pupil's leaving status will be 'withdrawn by parents'. However, it must clearly be understood by all that the School reserves the right to insist on permanent exclusion. There is no obligation on the Chair of College to consult with parents. If the decision is made by the parents to withdraw the pupil, there will be no right to appeal.
  - Explain the Appeals Procedure in writing to the parents.
  - Assist the parents in the search for an alternative school wherever possible.

- Ask the School Administrative Manager to notify the local authority within 24 hours of the date on which the pupil is removed from the School roll. In the case of a care-experienced ('looked-after') child from another local authority area, the 'home' local authority should be informed - if no alternative arrangements have been made for the pupil's education and they are below the statutory school leaving age.
  - **N.B.** The pupil should not be removed from the School roll until the appeal process has been concluded or the time limit for the appeal has expired or the parents have confirmed that they will not appeal.
- c. Where the pupil is to return to School, the Chair of College should consider appropriate reintegration and monitoring measures. These should be discussed with the parents and pupil and should be confirmed in writing. It is vital that any proposed support and/or follow-up actions are conducted and their effect monitored by relevant staff. In situations where another pupil or member of staff have suffered as a result of the excluded pupil's actions, the Chair of College should also ensure that there are suitable support mechanisms in place to assist them in dealing with the pupil's reintegration.

### **3. The Appeal Procedure**

An appeal process is available to parents of a permanently excluded pupil. The right to appeal does not extend to fixed term exclusions (whether pending an investigation or as a sanction) or where the pupil is withdrawn by the parents.

If parents wish to appeal against the decision to permanently exclude their child, they should set out the nature of their appeal in writing, clearly setting out the grounds on which they wish to appeal, and send it to Chair of Trustees within 14 days of the date of the School's written confirmation of the decision. If parents do not appeal within 14 days, there shall be no later right of appeal unless, in the opinion of the Chair of Trustees, exceptional circumstances exist which justify the delay. Where the parents' notice of appeal is received immediately prior to, or during a school holiday, the Chair of Trustees will progress matters as swiftly as reasonably practicable and will notify parents of any delay.

#### **3.1 Review Hearing**

On the receipt of an appeal, Chair of Trustees will convene an Appeal Panel and Review Hearing, usually within 15 School days. Parents will be notified in advance of the names of the Panel members.

The Panel will consist of at least two Trustees not directly involved in the matters surrounding the exclusion, and at least one person that is independent of the School. None of the panel should have detailed prior knowledge of the case. Parents should be notified in advance of the names of the members making up the review panel. The meeting should take place at the School premises.

Those present at the hearing will usually be:

- The panel and a note taker
- The Chair of College and any relevant members of staff whose presence the Chair considers to be necessary to secure a fair outcome for the pupil
- the pupil (where appropriate) and accompanied as required
- the pupil's parents and, if they wish, the parents may be accompanied by a friend or relation

The Chair of Trustees will write to the parents to ask them (or the pupil) to provide, not less than 10 days before the hearing, any written statements and supporting documentation on which they wish to rely, for inclusion in a combined bundle of documents for use at the hearing.

The Team who recommended exclusion is required to provide a statement to be included in the combined bundle of documents, which should cover the following areas:

- the pupil's age and school year
- a summary of the pupil's academic and behavioural record where relevant
- all steps taken by the school in relation to any previous disciplinary incidents
- a full account of the incident(s) leading to permanent exclusion
- the details of work set or relevant study guidance given during the exclusion period

All concerned should have the same set of documents before them for the hearing. The Chair of the Panel will ensure, at least 5 days prior to the hearing, the circulation of a copy of the combined bundle of documents to the parents, Chair of College and the panel. Only in exceptional circumstances will documents be allowed to be submitted for the hearing after this time.

The Chair of the Panel will normally write to the parents before the hearing, having considered the nature of the appeal and the documentary material, to outline the procedure for the hearing. Should the parents have any questions concerning the panel's procedure, they should address them to the Chair of the Panel.

### **3.2 Conduct of the Review Hearing**

- The Review meeting is a private procedure and all those participating including parents and pupils are required to keep its proceedings, all statements, correspondence, notes and documents confidential except where legally required to disclose them.
- A written record of the main points of the meeting will be taken by the note taker A copy of the minutes can be provided to the parents after the meeting, on request. Parents may take their own notes of the meeting but electronic recordings should not be permitted.
- The meeting will be chaired by one member of the Review Panel and conducted in an informal, non-adversarial manner appropriate to the age, understanding and maturity of the pupil involved, taking into account any additional needs of the pupil in all circumstances
- Everyone is expected to show courtesy, and respect the dignity and wellbeing of participants at all times. If this is not the case then the Chair of the Review Panel may at their discretion adjourn or terminate the meeting. If the meeting is terminated, the original decision to exclude will stand and there will be no further right of appeal.
- If for any reason the pupil or their parents are dissatisfied with any aspect of the meeting they must inform the Chair of the Review Panel at the time and ask the note-taker to note their dissatisfaction and the reasons for it.
- The Chair of the Panel should ensure that:
  - each party is given equal opportunity to put its case fully in the presence of each other.
  - The parents (and the pupil if they/are is over 18) can speak to the Panel privately if they wish to do so, by the others present withdrawing for a set period of the hearing. If the parents and the pupil wish the Panel to take any matters raised privately into consideration in reaching its decision, such matters will then be put by the Chair of the panel to the Chair of College and other School staff in the presence of the parents and the pupil.
  - It asks as many questions as necessary to elicit all relevant information to enable it to form a balanced view.
- Once the Chair of the Panel is satisfied that the questions raised by the parents have been fully considered by all present, the meeting will conclude.

### **3.3 Decision**

- The Panel members will make their decision in private. The decision will ideally be one where the Panel can make a unanimous decision; if not then a majority decision is made.
- The Review Panel will consider each of the questions raised by the parents in as much as they relate to the following:
  - whether the disciplinary offence/s were sufficiently proved when the decision was taken to exclude the pupil – including the time taken to consider the evidence and advice sought

from any relevant professionals before the decision made to exclude. The civil standard of proof – the balance of probability – will apply

- whether the permanent exclusion was reasonable and warranted – that is, whether it was proportionate to the breach of discipline or other events which are found to have occurred, and to the legitimate aims of the School's policy in that respect - based on expectations of what is possible and achievable for that pupil and the alternatives considered and support provided to reduce the risk where appropriate
- whether the decision was legally sound - exclusion procedures followed including informing parents, witness statements as well as any broader legal considerations, Child Protection, ALN Equalities Act etc.
- whether the permanent exclusion was fair and proportionate - that any extenuating circumstances were considered as well as any differences in response to other pupils in the same or similar situation – and why permanent rather than fixed term exclusion was appropriate
- deciding if reinstatement of the pupil would be possible (if sought), taking into account the impact of such re-instatement on other members of the School community (both staff and pupils) as well as those of the excluded pupil
- In forming its views the Panel must give sufficient consideration both to the procedures followed and reasoning employed by the School, and to the pupil's explanation of their behaviour. It must take a fair and impartial view and the requirements of natural justice will apply.
- The Panel may decide to either:
  - uphold the original decision and, if minded to do so, with agreement of the Chair of College, discuss the pupil's leaving status (i.e. permanent exclusion, required removal, or withdrawal) with a view to reaching an agreement with the parents;
  - refer the matter back to the Chair of College for further consideration of issues raised during the Appeal, and, if minded to do so, recommend that College reviews their decision including recommending an alternative sanction;
  - allow the Appeal and the pupil's re-instatement where practical; or
  - in circumstances where it is not practical to re-instate the pupil, to allow the Appeal and make a statement to the effect that reinstatement would have been appropriate but for the specific circumstances of the case.
- The Panel must inform the parent/s and the Chair of College of their decision, in writing within 5 school days stating their reasons. A note of the Panel's decision should be placed on the pupil's school record with copies of relevant papers.
- If the Panel decides that the pupil should return to School, parents will be given the date of return in writing.

- In the absence of a significant procedural irregularity, the decision of the Review Panel is final.
- Where the decision to permanently exclude is upheld, the School Administrative Manager should notify the local authority within 24 hours of notifying parents. In the case of a care-experienced ('looked-after') child from another local authority area, the 'home' local authority should be informed.

#### 4. General Principles

- The implementation of this policy will consider a broader picture of the facts and factors involved including Adverse Childhood Experiences (ACE) or Additional Learning Needs (ALN).
- In line with the School's duties under the Equality Act and the School's Access Plan, the School ensures that:
  - It does not discriminate against pupils with protected characteristics, including directly or indirectly, in the application of this Policy.
  - It recognises that some pupils require a more sensitive and differentiated approach, and makes reasonable adjustments for pupils with Additional Learning Needs and disabilities, unless it can be shown to be a proportionate means of achieving a legitimate aim.

---

#### Issue date

This policy was originally approved and came into effect from November 2015, and was last revised in June 2021.

#### Review date

This policy will be reviewed and revised by College and the Trustees at least every two years.

#### Endorsement

Full endorsement to this policy is given by:

Name: Brigid Bowen

---

Position: Chair of Trustees, Cardiff Steiner School

---

Signed:




---

Date: 4 June 2021

---

**Related policies**

This policy should be cross-referenced to related School policies including:

- Anti-Bullying Policy
- Positive Learning Policy
- School Access Plan
- ALN Policy
- Child Protection Policy and Procedures
- Conflict of Interest policy for staff and trustees