

## **Rugby High School Exclusions Policy**

This policy is based on the Department for Education's 2017 guide for those with legal responsibilities for exclusions, 'Exclusion from maintained schools, Academies and student referral units in England' and is consistent with the 'School Discipline, Student (Exclusions and Review) Regulations (England) 2012; The Education Act 2002, as amended by the Education Act 2011; The Education and Inspections Act 2006; The Education (Provision of Full-Time Education for Excluded Students) (England) Regulations 2007 as amended by the Education (Provision of Full-Time Education for Excluded Pupils [England] Amendment) Regulations 2014. This policy is linked to the school's Behaviour Policy and its Rewards and Sanctions Policy.

### **Purpose of the Policy**

To provide a clear guide for staff, students and parents on the exclusions process.

### **Introduction**

All young people have a right to education. Good discipline is essential to ensure that all students are able to profit from the learning opportunities provided by the school. Sanctions are occasionally required to maintain a productive learning environment and sometimes may be applied to behaviour that takes place outside the school (e.g. online, or on the way home from school). These sanctions include fixed term and permanent exclusion.

Rugby High School is a member of the Eastern Area Behaviour Partnership. Students whose behaviour is a cause for concern may be referred to the partnership. The school may seek the advice of its partners in imposing sanctions and offering support. Partnership resources or school resources may be used to buy alternative provision for students or to pay for interventions in order to meet needs and avoid permanent exclusion. A managed move (where the parents consent to a change of school) is amongst the measures available to the partnership.

Excluded students will be enabled and encouraged to participate at all stages of the exclusion process, taking into account their age and understanding. The school acknowledges that some groups of students are particularly vulnerable to exclusions e.g. students with a Special Educational Need; young people in care and will give particular consideration to the fair treatment of young people from vulnerable groups. All exclusions will be formally recorded and reported termly to the governing body and to Warwickshire County Council.

Records relating to exclusions will be retained for a period of at least six months from the date of the exclusion.

### **Fixed Term and Permanent Exclusions**

A student may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or permanently. A fixed term exclusion is used in cases where the misdemeanour is serious or the misbehaviour persistent despite interventions. A fixed term exclusion does not have to be for a continuous period. In exceptional cases, usually where further evidence has come to light a further fixed-period exclusion may be issued to begin immediately after the first period ends or a permanent exclusion may be issued to begin immediately after the fixed period. The governing body must arrange full time education for any student who has either a single fixed term exclusion or more than five days or consecutive fixed term exclusions that add up to more than five days. Permanent exclusion is used as a last resort, in response to a serious breach, or persistent breaches, of the school's behaviour policy; and where allowing the student to remain in school would seriously harm the education or welfare of the student or others in the school.

The school acknowledges that disruptive behaviour can sometimes be the product of an unidentified or unmet need. Where a student's behaviour consistently fails to meet expectations, the school will seek to investigate and intervene at an early stage, including, where necessary setting up multiagency meetings (EHAs) to support the student.

### **Exclusion by the Headteacher**

The decision to exclude a student may be made by the headteacher only.

Where practical, the head teacher will give the student an opportunity to present her case before taking the decision to exclude. Contributing factors that are identified after an incident of poor behaviour has occurred will be taken into account for example, where it comes to light that a student has suffered bereavement, has mental health issues or has been subject to bullying.

Whenever the head teacher excludes a student she will without delay, notify parents of the period of the exclusion and the reasons for it, she will also notify them in writing.

When establishing the facts in relation to an exclusion decision the head teacher will apply the civil standard of proof, i.e. 'on the balance of probabilities' it is more likely than not that a fact is true, rather than the criminal standard of 'beyond reasonable doubt'.

The school will take reasonable steps to set and mark work for students during the first five school days of an exclusion, and will arrange alternative provision from the sixth day.

Students returning to school after fixed term exclusion will be required to negotiate and sign a Behaviour Contract at their reintegration meeting. This contract may include the provision of support designed to help the student to avoid repeating the behaviours that led to the exclusion.

### **Right of Appeal**

In the event of a student being excluded permanently or for a fixed term of more than five days parents have the right to appeal to the Student Disciplinary Committee of the Governing Body (which will consist of a panel of three governors). They will consider the reinstatement of an excluded student within 50 school days of receiving notice of the exclusion if a student would be excluded from school for more than five school days, but not more than 15, in a single term.

In the event of a student being permanently excluded or where the exclusion will result in the student having been excluded for more than 15 days in a single term, or if the exclusion will result in the student missing a public examination, the Student Disciplinary Committee will hear the appeal within 15 school days.

In cases where it is not possible to convene a panel, prior to the public examination, the Chair of Governors will hear the appeal. This does not prevent parents from subsequently appealing to the Student Disciplinary Committee.

In the case of a fixed period exclusion which does not bring the student's total number of days of exclusion to more than five in a term, the Student Disciplinary Committee will consider any representations made by parents, but it cannot direct reinstatement and it is not required to arrange a meeting with parents.

At a Student Disciplinary Committee hearing parents and the head teacher will be invited to make representations. The Student Disciplinary Committee will ask for any written evidence

in advance of the meeting (including witness statements and other relevant information held by the school, such as those relating to a student's SEN). A list of those who will be present and all the documentation will be circulated to all parties at least five school days in advance of the meeting. Parents and students may be accompanied by a friend or representative (where a student under 18 is to be invited as a witness, the Student Disciplinary Committee will first seek parental consent and invite the parents to accompany their child to the meeting). The excluded student will be encouraged to attend the meeting and speak on his/her own behalf; a friend or parent may read a statement written by her on her behalf if it is not possible for the student to attend or he/she feels unable to speak. Minutes of the meeting will be taken by the clerk to the committee and made available to all parties on request.

All parties will be asked to withdraw whilst the governors make their decision. The clerk to the committee may stay to help governors by referring to the notes of the meeting or to help with the wording of any letters. In reaching a decision on whether or not to reinstate a student, the governing body will consider whether the decision to exclude the student was lawful, reasonable and procedurally fair, taking account of the head teacher's legal duties. They will also consider the interests and circumstances of the excluded student, including the circumstances in which the student was excluded, and have regard to the interests of other students and people working at the school. Governors will apply the civil standard of proof; i.e. 'on the balance of probabilities' it is more likely than not that a fact is true rather than the criminal standard of 'beyond reasonable doubt'. In the light of their consideration, the Student Disciplinary Committee will either uphold the exclusion or direct reinstatement of the student immediately or on a particular date.

Parents and the headteacher will be notified of the outcome of the hearing in writing. A note of the findings will be placed on the student's record.

### **Independent Review Panel**

Where parents (or the excluded student, if aged 18 or over) dispute the decision of the governing body not to reinstate a permanently excluded student, they can ask for this decision to be reviewed by an independent review panel. Where there is an allegation of discrimination (under the Equality Act 2010) in relation to a fixed-period or permanent exclusion, parents can also make a claim to the First-tier Tribunal (for disability discrimination) or a County Court (for other forms of discrimination).

All parents (or students if aged 18 or over), whether or not the school recognises that the student has a Special Educational Need (SEN), have the right to request the presence of a SEN expert at an independent review panel. The SEN expert's role is to provide impartial advice to the panel about how SEN could be relevant to the exclusion; for example, whether the school acted reasonably in relation to its legal duties when excluding the student.

The Independent Review Panel will consist of five members constituted as follows:

- A lay member to chair the panel who has not worked in any school in a paid capacity, disregarding any experience as a school governor or volunteer.
- two school governors who have served as a governor for at least 12 consecutive months in the last five years, provided they have not been teachers or head teachers during this time.
- two head teachers or individuals who have been a head teacher within the last five years.

The following are excluded from serving on Independent Review Panels:

- anyone who is a member / director /governor of Rugby High School Academy Trust
- the head teacher of Rugby High School or anyone who has held this position in the last five years;

- employees of Rugby High School Academy Trust (unless they are employed as a head teacher at another school);
- anyone who has, or at any time has had, any connection with Rugby High School Academy Trust; the parents or student; or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality (though an individual must not be taken to have such a connection simply because they are a head teacher at another school).

Rugby High School Academy Trust will ensure that all panel members and clerks have received training within the two years prior to the date of the review. This training will cover:

- 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 of a review panel;
- the role of the clerk to a review panel;
- the duties of head teachers, governing bodies and the panel under the Equality Act 2010; and
- 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.

The Clerk to the panel will make notes of the meeting. This will not be the same person as acted as Clerk to the Student Disciplinary Committee. The clerk will make reasonable efforts to circulate to all parties, including to panel members and the SEN expert, copies of relevant papers 5 school days in advance of the review. These papers will include:

- a) the Student Disciplinary Committee's decision;
- b) the parents' application for a review; and
- c) any policies or documents that the Student Disciplinary Committee was required to have regard to in making its decision.
- d) give all parties details of those attending and their role, once the position is clear.

The panel can decide to uphold the exclusion decision; recommend that the Student Disciplinary Committee reconsiders its decision, or quash the decision and direct that the Student Disciplinary Committee considers the exclusion again. The panel's decision does not have to be unanimous and can be decided by a majority vote. In the case of a tied decision the chair has the casting vote. The independent review panel's decision is binding on the: student; parents; governing body; head teacher; Warwickshire County Council; and Rugby High School Academy Trust.

The panel may only quash the decision where it considers that it was flawed when considered in the light of the principles applicable on an application for judicial review. New evidence may be presented to the panel, though the school may not introduce new reasons for the exclusion and panels must disregard any new reasons that are introduced. In deciding whether the Student Disciplinary Committee's decision was flawed, and therefore whether to quash the decision, the panel must only take account of the evidence that was available to the committee at the time of making their decision. This includes any evidence which the panel considers would, or should, have been available to the committee if they had been acting reasonably. If evidence is presented that the panel considers is unreasonable to have expected the committee to have been aware of at the time of their decision, the panel can take account of the evidence when deciding whether to recommend that the committee reconsider their decision. Where

present, the panel must seek and have regard to the SEN expert's view of how SEN might be relevant to the student's exclusion. Where a SEN expert has been requested but is not present, the panel will make parents aware of their right to request that the review is adjourned until such time as an SEN expert can attend.

Where the Independent Review Panel decides that the governors' decision is flawed when considered in the light of the principles applicable on an application for judicial review, it can direct the committee to reconsider its decision. However, the panel does not have the power to order the students' reinstatement.

Where the panel directs or recommends that the governing body reconsiders their decision, the Student Disciplinary Committee must reconvene within 10 school days of being given notice of the panel's decision. If, following a direction to reconsider, governors do not offer to reinstate the student, the school will be required to make a payment of £4,000 directly to Warwickshire County Council in addition to any AWPU (Age Weighted Pupil Unit) funding that would normally follow an excluded student.

The committee must notify parents, the headteacher and Warwickshire County Council of their reconsidered decision, and the reasons for it, in writing.

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