



## Exclusion, Expulsion and Removal

This policy applies to all members of our school community, including those in our Early Years setting.

The School is fully committed to ensuring that the application of this policy is non-discriminatory in line with the UK Equality Act (2010). Further details are available in the school's Equal Opportunity Policy document.

Tranby – East Yorkshire seeks to implement this policy through adherence to the procedures set out in the rest of this document.

This document is available to all interested parties on request from the main school office or may be downloaded from the school's website. This Exclusion, Expulsion, Removal and Review policy should be read in conjunction with the school's Admissions policy and Behaviour and Discipline Policy along with procedures and other documentation relating to:

- School code of conduct
- Restorative practice
- Rewards and sanctions
- Exclusion from lesson
- Use of Force
- Anti-bullying
- Admissions
- Substance misuse
- Behaviour
- Prep School Behaviour for Learning Statement

This document is reviewed annually by Mr Chris Wainman, Head or as events or legislation change requires.

| Exclusions, Expulsion and Removal |                                |
|-----------------------------------|--------------------------------|
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## **Policy Statement**

This policy is designed to assist United Church Schools Trust (UCST) and its schools in meeting their obligations under Part 3, Paragraph 9 of the ISS Regulations, and the Statutory Framework for the Early Years Foundation Stage (EYFS). All of these require schools to have arrangements in place to promote good behaviour in school and that appropriate sanctions are imposed when a pupil fails to meet appropriate standards of behaviour. 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 sanctions available.

Heads, Local Governing Bodies, United Learning, appeal/review panel members and Clerks should all have regard to this overarching policy document when considering exclusions. UCST and its schools must ensure that any exclusion complies with individual school policies and the Terms and Conditions of the contract with parents and has regard to the Trust and school's wider legal obligations (such as those under the Equality Act 2010).

UCST believes that exclusion is recognised as an appropriate sanction, however permanent exclusion should usually only be used as a last resort when a range of other strategies have been tried and exhausted. Most exclusions are the result of serious and/or persistent breaches of the school's discipline policy. During exclusions the Head (or nominated senior member of staff) should remain in contact with the pupil to monitor and ensure the safety and welfare of the pupil and others. A permanent exclusion for a serious breach (e.g., a one-off or first offence) should only happen in the most serious of circumstances and exclusions should only be instigated when all other routes have been exhausted and/or as detailed in this policy.

Exclusions should only ever be issued by the Head or Assistant Head (pastoral) with delegated authority in the Heads absence. Any decision to require the removal of a pupil or to permanently exclusion should follow consultation with Head of Independent Schools.

An exclusion appeal process must also be provided for parents. All schools within UCST deal with an appeal against exclusion/required removal under Stage 3 of their Complaints Procedure and must therefore ensure that such appeals comply with Stage 3 of their published policy on complaints.

In this policy, reference to 'exclusion' includes both fixed term (temporary) and permanent exclusions. Where the policy is referring to a specific type (i.e. fixed term or permanent) of exclusion, the wording will make this clear.

## **Behaviour warranting exclusion**

School policy should define behaviour that merits exclusion and its geographical location i.e., that it extends to behaviour outside of school which brings the School into disrepute and/or could have repercussions for the orderly running of the school. Examples of behaviour that might merit exclusion can be found at Appendix 1.

## Exclusion from school

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). Fixed term exclusions may be, for example, for a period of between 48 hours and 5 days for very serious indiscipline; or less serious offences, where repeated punishment has proved ineffective. If a fixed term exclusion is ineffective, the Head may be forced to permanently exclude the pupil, or to require him/her to be removed (as described below).

### 2. Permanent Exclusion

This is where the pupil is permanently removed from the school and the contract between the School and parents/guardians in relation to the excluded pupil is terminated. The decision should only be taken where the pupil has committed a serious breach or persistent breaches of the School's behaviour policy; and/or allowing him/her to remain in the school seriously harms the learning or welfare of the pupil or others in the school; and/or the parents/guardians have breached their contractual obligations with the school, including with regard to non-payment of fees.

For breach of school discipline by a pupil, in most cases, this will be after a wide range of alternative strategies have been tried without success. However, there will be exceptional circumstances where, in the Heads' professional judgement, it might be appropriate to permanently exclude a child for a single serious breach (one-off or first offence). Examples of misconduct that might be considered as a serious breach are set out in Appendix 1.

## Stages of Exclusion

UCST schools must ensure the exclusions process follows published school policies and the Terms and Conditions of the contract with parents. The exclusions process will usually fall into **three stages**:

1. Investigation
2. Decision by the Head
3. Consideration of the Head's decision by a Stage 3 Panel – *if requested by parents/guardians.*

The initial decision on whether to exclude is for the Head to take. As part of considering each permanent exclusion, **the Head must consult with the Head of Independent Schools at United Learning before the decision is reached.**

### 1. Investigation

The Head must apply sanctions fairly, and, where appropriate, after due investigative action has taken place. Parents/guardians should be informed in writing as soon as reasonably practicable if a complaint or allegation under investigation is of a nature that could result in the pupil being excluded.

In some cases, investigation may not be immediately possible if, for example, the incident is complex, and several witness statements are required. In this case, the Head may issue a fixed term exclusion for a short period (a maximum of 5 school days is advised) as a neutral act:

- to allow investigation to take place; and/or
- to give opportunity for a reasoned decision.

In this case the letter informing parents of the fixed term exclusion should 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 punishment for the incident under investigation. Further information about the investigation process can be found below.

## **2. Decision by Head**

Once the investigation is complete, a further letter should be sent containing one of the following:

- notification for the pupil to return to school.
- an extension to the fixed term exclusion (if reasonably required); or
- notification of a permanent exclusion.

Decisions should be reached on the balance of probabilities e.g., it is more likely than not that the pupil committed a serious breach of school discipline. In exceptional cases, usually where further evidence not available at the time of the investigation has come to light, a fixed term exclusion may be extended and/or converted to a permanent exclusion. Similarly, the Head may choose to dismiss a fixed term exclusion in the light of new evidence.

### **Behaviour outside School**

The Head has the authority to make disciplinary decisions about behaviour taking place on trips, outings, sporting fixtures, or travel/movement in the vicinity of the school. Subject to the requirements of this and the school's individual behaviour policy, the Head may discipline pupils even if the circumstances giving rise to exclusion occur when the pupil is out of school. Schools' own policies should make clear how this operates in practice. By way of example, this may apply in the following circumstances:

- Misbehaviour when the pupil is:
  - taking part in any activity organised by the school, or related to the School;
  - travelling to and from school.
  - wearing school uniform; or
  - in some other way identifiable as a pupil of the school.
- Misbehaviour at any time, whether the conditions above apply, that:
  - could have repercussions for the orderly running of the School.
  - poses a threat to another pupil or member of the public; or
  - could adversely affect the reputation of the school.

In all cases, the above misbehaviour would apply whether it took place in person, over the telephone or online (including on social media).

### **Police 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 the police investigation. Schools 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).

Schools should 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.

## Required Removal

Any decision to require the removal of a pupil should also follow consultation with the Head of Independent Schools at United Learning before the decision is reached by the Head.

Required removal may be an option available to the Head as an alternative to exclusion. **Schools are advised to check the detail of school policies and the Terms and Conditions of the Contract to see the circumstances in which a pupil may be required to leave as opposed to being excluded.**

By way of example, the Head may require parents to remove a pupil when, in the professional opinion of the Head, there has been a breakdown in the relationship between the pupil and/or parent/guardian(s) and the School. This may arise through:

- A breakdown of trust and confidence between the school and the parent(s). This may manifest itself in several ways, including:
  - unreasonable behaviour or conduct of parents/guardians which adversely affects (or is likely to adversely affect) their child's or other children's progress at the school, or the wellbeing of staff and/or brings (or is likely to bring) the school into disrepute
  - parent/guardian(s) not supporting the school in behaviour management
  - vexatious behaviour, such as parents/guardians repeatedly bringing unsubstantiated claims
  - abusive behaviour by parents/guardians to the school's staff, pupils or other parents (for example as a spectator at school fixtures).
- A breakdown of trust between the school and the pupil. This may manifest itself in several ways, including:
  - persistent misconduct such as unauthorised absence from school.
  - unsatisfactory attendance and, in the reasonable opinion of the Head, the removal is in the school's best interests and that of the child or other children.
  - when a pupil has brought a malicious or unjustified allegation against a member of staff.
  - Other circumstances where the Head (after appropriate consultation) is satisfied that it is not in the best interests of the pupil, or of the School, that the child remains at the School.

**The above are examples only.** All UCST schools must check school policies and the Terms and Conditions of the contract to ensure termination is in accordance with published policies and the provisions of the contract.

## Investigatory Procedures

All misbehaviour or disciplinary incidents must be dealt with by the school as soon as it is reasonably possible to do so.

In the event of an incident of serious misbehaviour, an investigation should be carried out to establish the facts. An investigation of a complaint or allegation about serious misbehaviour may be coordinated by the Assistant Head or an appropriate member of senior staff. It is important to ensure that parents/guardians are informed as soon as reasonably practicable if a complaint or allegation under investigation is of a nature that could result in the pupil being excluded.

To ensure a fair process, the pupil should be given the opportunity to give their account of events and to put forward any mitigating factors: this is important to establish whether there are grounds for the reported complaint and/or a formal investigation. The school should arrange for a member of staff to be present to support the pupil. A pupil who is waiting to be interviewed may be segregated and the school may confiscate a pupil's mobile phone

or other personal belongings (as appropriate) for such a period as it is deemed necessary. Due regard should also be had to any vulnerability and/or SEND the pupil may have any whether any additional support should be put in place.

If other pupils and staff are involved, it may be appropriate to speak with them and/or ask them to prepare written statements as soon as possible after the incident has taken place. The findings of the investigation should be presented to the Head for consultation and consideration.

### **Suspension (Pending an Investigation)**

While an investigation into a pupil's conduct is carried out, a pupil may be suspended from school and may be required to stay at home, or with their education guardian. Alternatively, the pupil may be placed under a segregated regime on school premises. When a pupil is suspended, teachers should set work to be completed by the pupil during their period of absence.

Schools should note that they still owe a duty of care to any pupil who is suspended pending an investigation.

### **Search**

The School reserves the right to search pupils and their possessions and must ensure such searches are conducted in line with guidance on searches and confiscation issued by the DfE ("Searching Screening and Confiscation") and the School's own behaviour policies.

### **Reports to the Police (and others)**

Schools will usually report to the Police any activity which they reasonably suspect may amount to criminal activity which takes place either within the school grounds or outside of its grounds.

Possessions or items including (but not limited to) drugs, weapons or phones which are evidence of an offence must be passed to the Police as soon as possible. Any article that is reasonably suspected to be an offensive weapon must also be passed to the Police.

If the Schools reasonably suspects a pupil may have taken drugs, then it should seek immediate medical advice and involve the Police and/or children's social care, where necessary and appropriate.

In cases where a pupil is suspected or alleged to have committed an offence, such as rape, assault by penetration or sexual assaults, the starting point is that they should be passed to the Police. This will often be a natural progression of making a referral to children's social care. The school's designated safeguarding lead (or a deputy) should be leading the School's response and should be aware of the local process for referrals to children's social care and making reports to the Police. The alleged victim's parents/guardians will usually also be informed (subject to data protection and safeguarding considerations) of the incident and be told that the Police have been informed. Schools are referred to DfE guidance on *Sexual Harassment and Sexual Violence* for further information.

Schools should ensure their Safeguarding and Child Protection Policy is followed to ensure there is appropriate support in place for all pupils involved.

### **Disciplinary Meeting**

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

## Preparation for the Meeting

The Head should convene a meeting to consider the matter and invite the pupil and his/her parents/guardians to attend the meeting. The Chair of the LGB should also be kept informed (but should **not** take part in the process). Prior to the meeting, certain documents should be made available to the pupil (as appropriate to their age and understanding) and their parents, wherever possible. These documents may include, but are not limited to:

- a statement setting out the points of complaint.
- written witness statements.
- notes of the evidence in support of the complaint.
- the relevant school policies and procedures; and
- the investigation reports.

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 Head before the disciplinary meeting. At least one full working day before the meeting is recommended to allow sufficient time for the Head to review.

The pupil should be in attendance throughout the disciplinary meeting and may be accompanied by a trusted adult (which may be a member of staff). The pupil's parent/guardians may similarly be accompanied, should they wish. Legal representation is not appropriate and should not be permitted. [Parents may take their own notes of the meeting, but electronic recordings should not be permitted.] The Head should be informed of all attendees at least 24 hours before the disciplinary meeting.

## Proceedings

The process to be followed at the disciplinary meeting shall be determined by the Head 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/s involved, considering any additional needs of the pupil/s in all circumstances. Notes should be taken by the school during the disciplinary meeting. The meeting should be followed up in writing, to confirm what was discussed. A copy of the notes can be provided to the parents/guardians, if they request this.

The pupil should have an opportunity to provide their account and both the pupil and his/her parents/guardians should be able to ask questions. The pupil/parents/guardians should also be able to address the Head on the issue of sanctions.

If the Head 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/guardians. If an adjournment is not necessary, the Head should communicate their decision in writing as soon as reasonably practicable following the meeting and in accordance with any timeframe(s) set out in school policies. The Head should include the reasons for their decision and the appropriate sanction. The pupil's previous disciplinary history may be considered, when reaching a decision.

Due regard must be had to any SEND 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.

## Leaving status

If the Head decides that a pupil should leave the school, the pupil's parents/guardians *may* be consulted to determine the appropriate leaving status for that pupil (i.e. permanent exclusion, required removal or voluntary withdrawal by the parents/guardians). There is no obligation on the Head to consult with parents/guardians. If the decision is made by the parents to withdraw the pupil, there should be no right to appeal.

Pupils who have permanently left the school, irrespective of leaving status, should not be permitted to re-enter school premises without prior consent from the Head and may not be permitted to sit public examinations at the school, irrespective of the timing of the offence(s). The school may plan for the transfer of any course and project work to either the leaving pupil, the parents/guardians or to another school.

## Decision letter

The Head's decision letter should make clear to parents the disciplinary sanction that has been applied, the reasons for the decision (with reference to appropriate school policy and/or the terms of the contract, where applicable) and any right of appeal and how parents/guardians may exercise this.

Where a pupil is permanently excluded, the sanction that will be applied to the pupil will be that of a permanent exclusion. This means that the pupil is permanently excluded *unless and until* the decision is overturned (such as following a review by a Stage 3 Panel on appeal). This means that the excluded pupil will not be allowed back into school *unless* the permanent exclusion is reversed.

## 3. Appeal Hearing

An appeal process must be available to parents/guardians of a permanently excluded pupil or where the pupil is required to leave the school. The right to appeal does not extend to suspensions (whether pending an investigation or as a sanction) or where the pupil is withdrawn by the parents/guardians. Schools will use the final (panel) stage of their Complaints Procedure (Stage 3).

If parents/guardians wish to appeal the Head's decision to exclude/require removal, UCST recommends that they must do so within three working days or 72 hours of the Head's decision. Individual school exclusions policies must make clear the timescales that apply and that these supersede the timeframes provided for in the Complaints Procedure when it relates to an appeal against the permanent exclusion/required removal of a pupil. This is important to provide certainty and to avoid matters becoming protracted. A school who receives a request outside the specified period is not obliged to arrange an appeal, but it is recognised that there may be exceptional circumstances where an appeal may be accommodated; in such circumstances, schools may exercise their discretion and arrange a Stage 3 panel hearing to take place outside the normal timescales.

## Request for Review

Upon notification of the Head's decision to exclude or require a pupil to leave the school, parents/guardians may wish to appeal the Head's decision and request a Panel hearing under Stage 3 of the Complaints Procedure. The process set out in Stage 3 of the Complaints Procedure must be followed.

An application for review should be received by the Clerk to the LGB within 72 hours or three working days of the decision being notified to the parents/guardians and clearly set out the grounds on which parent/guardians are asking for a review and the outcome that they seek.

## Review Hearing (under Stage 3 of the Complaints Procedure)

The review should be undertaken by two members of the LGB and at least one person that is independent of the school, as per Stage 3 of the Complaints Procedure. None of the panel should have detailed prior knowledge of the

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case. Parents/guardians 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 and within the timeframes set out in the school complaints policy.

A review meeting is an internal procedure and all those involved, or who are concerned in the procedure, should be reminded to keep its proceedings confidential. Those present at the hearing will usually be:

- members of the review hearing and the Clerk to the LGB;
- the Head and any relevant members of staff whose presence the Head considers to be necessary to secure a fair outcome for the pupil; and
- the pupil (where appropriate)
- the pupil's parents/guardians and, if they wish, the parents may be accompanied by a friend or relation who is not legally qualified.

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

UCST schools must ensure that they follow the process set out in their complaints procedure when conducting a Stage 3 Panel Hearing. In addition to ensuring compliance with their own complaints' procedure, all UCST schools are strongly advised to ensure the following arrangements are in place:

- The review hearing should be chaired by one member. As with the disciplinary meeting, the hearing should be conducted in an informal, non-adversarial manner appropriate to the age, understanding and maturity of the pupil involved, considering any additional needs of the pupil in all circumstances.
- Someone should be asked to take minutes of the hearing. This will usually be the Clerk to the LGB. A copy of the minutes can be provided to the parents/guardians after the meeting, if they so request.
- Parents/guardians may take their own notes of the meeting, but electronic recordings should not be permitted.
- The Chair of the Panel should ensure that all those present can ask questions and make appropriate comment.
- The Chair of the Panel may at his/her discretion adjourn or terminate the hearing. If the hearing is terminated without a conclusion being reached, the original decision of the Head will stand.

### **Decision**

The Panel will consider the grounds for the review and may decide either to:

- uphold the decision of the Head and, if minded doing so, with agreement of the Head, discuss the pupil's leaving status (i.e., permanent exclusion, required removal, or withdrawal) with a view to reaching an agreement; or
- if they wish, recommend the decision of the Head to be reviewed and, if minded doing so, recommend the Head reviews their decision including recommending an alternative sanction.

The decision should be notified, together with the reasons for the decision, to the parents/guardians by the Chair of the review hearing in writing within the timescales set out in school policy.

### **Confidentiality**

All those participating in the application of this policy including parents and pupils are required to keep all statements, correspondence, notes and documents confidential except where legally required to disclose them.

## **Responsibilities of the School**

The procedures followed should ensure fairness and openness in the handling of exclusions. Schools should follow this guidance and individual school policies and ensure compliance with their Terms and Conditions. This will reduce the chance of any successful legal challenge to the exclusion at a later stage.

## **Role of the LGB (Local Governing Body)**

The United Learning Trust Charity Board has delegated powers to the LGB to review the Head's decision to exclude. Where parents request an appeal, two members of the LGB and the independent Panel member should consider any representation(s) about an exclusion made by the parents of the excluded pupil.

## **The Panel's Decision**

As noted above, the Panel may decide to uphold an exclusion or recommend reconsideration by the Head. Only in *very* rare circumstances may a Panel decide to overturn the Head's decision and order reinstatement (either immediately or by a particular date).

The Panel must inform the parent and the Head of their decision, in writing without delay and within the timescales set out in school policy, stating their reasons. A note of the Panel's decision should be placed on the pupil's school record with copies of relevant papers.

## **Role of the Clerk to the LGB**

The panel may appoint a Clerk. The Clerk should not be a member of the governing body or the Head's personal assistant. The role of the Clerk is to handle the administrative arrangements for considering exclusions. The Clerk should not contribute to the meeting other than in an administrative capacity. Where possible, the Clerk should be experienced in exclusion matters so that the meeting can progress smoothly.

## **The role of United Learning**

UL does not have a decision-making role in exclusions for any school. The Charity Board has delegated this responsibility to the Head of each school. As part of considering each permanent exclusion, however, the Head must consult fully with the Education Director of United Learning (or delegated executive) before a decision is reached. It is the Panel which has the duty to review the Head's decision to exclude, when requested by the parents.

## **Deleting a pupil from the school roll**

Where a pupil is permanently excluded or is required to leave, the pupil should not be removed from the roll until such time as the timeframe for appealing the Head's decision has passed and/or the outcome of any Stage 3 Panel review is known. This is important because a pupil can only lawfully be deleted from the admission register on the grounds prescribed in the Education (Pupil Registration) (England) Regulations 2006 as amended. These Regulations list the limited lawful grounds for removing a pupil from the roll. These include:

- The pupil has been registered at another school (unless it is agreed that the pupil should be registered at more than one school)
- The pupil is registered at more than one school, but has ceased to attend the school in question and a school at which the pupil is registered has given consent to the removal
- Written notification has been received from the parents that the pupil will be receiving education otherwise than at school

- The pupil has been permanently excluded
- The pupil, who is *not* of compulsory school age, has ceased to attend the school

### Remedies After the Panel's Decision

There are various courses of action disgruntled parents could take if they are unhappy with the decision to exclude and/or the management of the exclusions process. By way of example, these could include:

1. A complaint to the Department for Education, ISI and/or Ofsted if parents/guardians consider there are whole school issues that have not been addressed.
2. **Breach of contract** – if parents believe the school has acted in breach of the Terms and Conditions of the contract
3. **Equality Act 2010 claim** – if parents/guardians are of the view the decision is discriminatory and/or otherwise in breach of the Equality Act 2010

## Appendix 1      Examples of Misconduct that May Lead to Permanent Exclusion

Permanent exclusions are extremely serious and should only be used in exceptional circumstances. Permanent exclusions should only be in response to persistent misconduct of a serious nature, where other sanctions have been attempted and not resulted in improved behaviour and conduct.

There are a few single incidents that may lead to a permanent exclusion, these are:

- a serious breach of safety requirements likely to endanger other people or the pupil themselves.
- use or possession of or supply of alcohol or illegal drugs within the school premises or during school organised activities.
- removal of, or damage to, school property.
- stealing from the school, employees of the school, or from other pupils.
- intentional damage to property.
- abuse of the school's computer system and of the internet.
- sexual misconduct, abuse or assault.
- serious actual or threatened violence or physical assault against another pupil, member of staff or worker in the school.
- carrying an offensive weapon (defined as any item made or adapted for causing injury)
- bullying and/or harassment including racial, sexual or homophobic harassment.
- wilful defiance of the properly exercised authority of the school and its staff.
- bringing the school into disrepute or acting in a manner deliberately to undermine the school's principles or ethos.