

# **ST BARTHOLOMEW'S SCHOOL**

## **EXCLUSION POLICY**

**Reviewed by the Governors' Education Committee, Autumn 2020**

**Approved by the Full Governing Body, Autumn 2020**

**To be reviewed Autumn 2021**

Due to the COVID-19 pandemic the Government has put in place interim arrangements that allow exclusion hearings to be held remotely and adjustments to timings for applications for independent reviews. Whilst the pandemic continues, St Bartholomew's School will consult the latest guidance when considering each stage of the exclusion process to ensure that the latest updates are taken into account.

### **Aims**

St Bartholomew's School aims to ensure that:

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

### **Legislation and statutory guidance**

This policy is based on statutory guidance from the Department for Education:

Exclusion from maintained schools, academies and pupil referral units (PRUs) in England. September 2017.

It is based on the following legislation, which outline schools' powers to exclude students:

- 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 students
- 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

### **The decision to exclude**

Only the headteacher, or a person acting with the headteacher's authority, can exclude a student from school and this decision may only be made on disciplinary grounds. A permanent exclusion will be taken as a last resort.

A decision to exclude a student permanently will be taken only:

- In response to a serious breach or persistent breaches of the school's behaviour policy, **and**
- If allowing the student to remain in school would seriously harm the education or welfare of the student or others.

Before deciding whether to exclude a student, either permanently or for a fixed period, the headteacher will:

- Consider all the relevant facts and evidence, using the civil standard of proof (ie it is more likely than not that it did happen, rather than beyond reasonable doubt) including whether the incident(s) leading to the exclusion were provoked;
- Allow the student to give their version of events;
- Consider if the student has special educational needs (SEND).

## **Definition**

For the purposes of exclusions, 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.

## **Roles and responsibilities**

The headteacher will, without delay, provide the following information, in writing, to the parents/carers of an excluded student:

- The reason(s) for the exclusion;
- The length of a fixed-term exclusion or, for a permanent exclusion, the fact that it is permanent;
- The parents'/carers' right to make representations about the exclusion to the Governing Body and how the student may be involved in this;
- How any representations may be made;
- Where there is a legal requirement for the Governing Body to meet to consider the reinstatement of a student, and that parents/carers have a right to attend a meeting, to be represented at that meeting (at their own expense) and to bring a friend.

The headteacher will also notify parents/carers by the end of the afternoon session on the day their child is excluded that for the first five 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/carers 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/carers 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;
- Any information required by the student 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'/carers' consent.

As far as reasonably practicable, it will be checked that a student will be safe during any period of exclusion.

## **Informing the Governing Body and Local Authority**

The headteacher will, without delay, notify the Governing Body and West Berkshire of:

- A permanent exclusion, including when a fixed-period exclusion is followed by a decision to permanently exclude a student;
- Exclusions which would result in the student being excluded for more than five school days (or more than 10 lunchtimes) in a term;
- Exclusions which would result in the student missing a public examination.

For a permanent exclusion, if the student lives outside West Berkshire in which St Bartholomew's is located, the headteacher will also, without delay, inform the student's 'home authority' of the exclusion and the reason(s) for it without delay.

For all other exclusions, the headteacher will notify the Governing Body and West Berkshire once a term.

Notifications must include the reason(s) and duration of any fixed period exclusion.

## **The Governing Body**

Responsibilities regarding exclusions is delegated to the Governors' Discipline Committee (GDC) made up of three governors, which has a duty to consider the reinstatement of an excluded student.

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

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

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

## **Considering the reinstatement of a student**

The GDC will consider the reinstatement of an excluded student 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 student's total number of school days of exclusion to more than 15 in a term;
- It would result in a student missing a public examination, when the reinstatement of the student will be considered before the date of the examination.

If requested to do so by parents/carers, the GDC will consider the reinstatement of an excluded student within 50 school days of receiving notice of the exclusion if the student would be excluded from school for more than five school days, but less than 15, in a single term. In the absence of any representation from the parents/carers, the GDC is not required to meet and cannot direct reinstatement of the student.

The Governing Body can either:

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

In reaching a decision the GDC will consider whether the decision to exclude was lawful, reasonable and procedurally fair and taking account the headteacher's legal duties and the evidence presented to the panel in relation to the decision to exclude. 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'. Minutes will be taken of the meeting, and a record of evidence considered kept. The outcome will also be recorded on the student's educational record.

The Governing Body will notify, in writing, the headteacher, parents/carers and the Local Authority of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the Governing Body's decision will also include the following:

- The fact that it is permanent
- Notice of parents'/carers' right to ask for the decision to be reviewed by an independent review panel, and:
  - The date by which an application for an independent review must be made (ie 15 school days from the date on which notice is given in writing of the GDC's decision; this is deemed to have been given on the same day if it is hand delivered or on the second working day after posting if sent by first class mail).
  - 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 student's SEND are considered to be relevant to the exclusion
  - That, regardless of whether the excluded student has recognised SEND, parents/carers have a right to require the school to appoint an SEND expert to advise the review panel
  - Details of the role of the SEND expert and that there would be no cost to parents for this appointment
  - That parents/carers must make clear if they wish for an SEND expert to be appointed in any application for a review
  - That parents/carers may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents/carers may also bring a friend to the review
  - Links to statutory guidance on exclusions, guidance on making a claim of discrimination to the First-tier Tribunal and sources of impartial advice.

That if parents/carers 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.

## **An independent review**

If parents/carers apply for an independent review, the school will arrange for an independent panel to review the decision of the Governing Body not to reinstate a permanently excluded student, applications for an independent review must be made within 15 school days of notice being given to the parents/carers by the Governing Body of its decision to not reinstate a student. Any application made outside this time frame will be rejected.

A panel of three or five members will be constituted with representatives from each of the categories below. Where a five member panel is constituted, two members will come from the school governor category and two members will come from the headteacher category.

- 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
- 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
- Headteachers or individuals who have been a headteacher within the last 5 years

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

- Are a governor of St Bartholomew's School.
- Are the headteacher of St Bartholomew's School, or have held this position in the last 5 years
- Are an employee of St Bartholomew's School, or the Local Authority (unless they are employed as a headteacher at another school), or a member of the governing body,
- Have, or at any time have had, any connection with St Bartholomew's School, its governing body, as a parent or student, or are involved in 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.

A clerk will be appointed to the panel.

The independent panel will decide one of the following:

- Uphold the Governing Body's decision
- Recommend that the Governing Body reconsiders reinstatement
- Quash the Governing Body'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.

## **School registers**

A student'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 student and no application has been made for an independent review panel, or
- The parents/carers 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 Governing Body will wait until that review has concluded before removing a student's name from the register.

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

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

## **Returning from a fixed-term exclusion**

Following a fixed-term exclusion, a re-integration meeting will be held involving the student, parents/carers, a member of senior staff and other staff, where appropriate.

The following measures may be implemented when a student returns from a fixed-term exclusion:

- A PSP (Pastoral Support Programme) which runs for a minimum of 8 weeks, with regular reviews with parents/carers and support in place for the student
- Post-Exclusion Meetings which run for 4 weeks, with regular reviews and support in place for the student
- Making any changes to the student's timetable / registration and tutoring arrangements

## **Independent review panel training**

The school 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 bodies 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.

## **Monitoring arrangements**

The Deputy Headteacher: Student Progress, Inclusion, Teaching & Learning monitors the number of exclusions every term and reports to the Education Committee of the Governing Body, as well as liaising with the local authority to ensure accurate records are kept and that suitable full-time education is available for excluded students.

Signed \_\_\_\_\_ Date \_\_\_\_\_

Chair of Governors