



# Exclusion Policy

## ABOUT THIS DOCUMENT:

Purpose: This policy sets out how for staff and governors how exclusions are managed at Creating Tomorrow College.

The aim is to ensure that the strategies and approaches are used effectively so that everyone can work together to ensure learners return quickly and safely to college so that there is minimal disruption to learning.

Written by Kevin Latham January 2021

Agreed by Directors

SIGNED

DATE

Review Date:

January 2023

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## Wellbeing in our Trust

Managing exclusions, by its very nature, can be challenging and so this document aims to set out procedures to be followed to minimize what can be difficult process. We are all affected by poor physical and mental health at times during our lives and it is important the appropriate support is available in a timely manner.

Health and wellbeing is everyone's responsibility and we encourage an open and honest culture whereby anyone can discuss any issues they may have.

The Trustees of Creating Tomorrow take the health and wellbeing of all employees seriously and are committed to supporting our staff. The Trustees ensure that support for staff is available through:

- Effective line management
- Commitment to reducing workload
- Supportive and professional working environments
- Employee support programs
  - Health Assured (confidential counselling support available through Perkbox account).
  - The Teacher Support Line telephone number 08000 562561 or website [www.teachersupport.info](http://www.teachersupport.info)

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## 1. Aims

Our college aims to ensure that:

- The exclusions process is applied fairly and consistently
- The exclusions process is understood by governors, staff, parents and learner
- Learners in college are safe and happy
- Learners do not become NEET (not in education, employment or training)

## 2. Legislation and statutory guidance

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

It is based on the following legislation, which outline colleges' powers to exclude learners:

- Section 52 of the Education Act 2002, as amended by the Education Act 2011
- The College Discipline (Student Exclusions and Reviews) (England) Regulations 2012
- Sections 64-68 of the College Standards and Framework Act 1998

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 learners
- Section 579 of the [Education Act 1996](#), which defines 'college day'
- The [Education \(Provision of Full-Time Education for Excluded Students\) \(England\) Regulations 2007](#), as amended by [The Education \(Provision of Full-Time Education for Excluded Students\) \(England\) \(Amendment\) Regulations 2014](#)

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

## 3. The decision to exclude

Only the Director of College, or acting Director of College (person with delegated responsibility in absence of the Director of College), can exclude a learner from college. A permanent exclusion will be taken as a last resort.

Our college is aware that off-rolling is unlawful. Ofsted defines off-rolling as:

“...the practice of removing a learner from the college roll without a formal, permanent exclusion or by encouraging a parent to remove their child from the college roll, when the removal is primarily in the interests of the college rather than in the best interests of the learner.”

We are committed to following all statutory exclusions procedures to ensure that every child receives an education in a safe and caring environment.

A decision to exclude a learner will be taken only:

- In response to serious or persistent breaches of the college's relationship (behaviour) policy, **and**
- If allowing the learner to remain in college would seriously harm the education or welfare of others or themselves

Before deciding whether to exclude a learner, either permanently or for a fixed period, the Director of College will:

- Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked
- Allow the learner to give their version of events
- Consider the learner's special educational needs

#### **4. Definition**

For the purposes of exclusions, college day is defined as any day on which there is a college session. Therefore, INSET or staff training days do not count as a college day.

#### **5. Roles and responsibilities**

##### **5.1 The Director of College**

###### **Informing parents**

The Director of College will immediately provide the following information, in writing, to the parents of an excluded learner:

- The reason(s) for the exclusion
- The length of a fixed-term exclusion or, for a permanent exclusion, the fact that it is permanent
- Information about parents' right to make representations about the exclusion to the governing board and how the learner may be involved in this
- Where there is a legal requirement for the governing board to meet to consider the reinstatement of a learner, and that parents have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend

The Director of College will also notify parents by the end of the afternoon session on the day their learner is excluded that for the first 5 college 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 college hours without a good reason. Parents may be given a fixed penalty notice or prosecuted if they fail to do this.

If alternative provision is being arranged, the following information will be included when notifying parents of an exclusion:

- The start date for any provision of full-time education that has been arranged
- The start and finish times of any such provision, including the times for morning and afternoon sessions, where relevant

- The address at which the provision will take place
- Any information required by the learner to identify the person they should report to on the first day

Where this information on alternative provision is not reasonably ascertainable by the end of the afternoon session, it may be provided in a subsequent notice, but it will be provided no later than 48 hours before the provision is due to start. The only exception to this is where alternative provision is to be provided before the sixth day of an exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent.

### **Informing the governing board and local authority**

The Director of College will immediately notify the governing board and the local authority (LA) of:

- A permanent exclusion, including when a fixed-period exclusion is made permanent
- Exclusions which would result in the learner being excluded for more than 5 college days (or more than 10 lunchtimes) in a term
- Exclusions which would result in the learner missing a public examination

For a permanent exclusion, if the learner lives outside the LA in which the college is located, the Director of College will also immediately inform the learner's 'home authority' of the exclusion and the reason(s) for it without delay.

For all other exclusions, the Director of College will notify the governing board and LA once a term.

### **5.2 The governing board**

At Creating Tomorrow academies trust, responsibilities regarding exclusions is delegated to the local governing body

The governing board has a duty to consider the reinstatement of an excluded learner (see section 6)

Within 14 days of receipt of a request, the governing board will provide the secretary of state information about any exclusions in the last 12 months.

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

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

### **5.3 The LA**

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

## **6. Considering the reinstatement of a learner**

The governing body will consider the reinstatement of an excluded learner within 15 college days of receiving the notice of the exclusion if:

- The exclusion is permanent
- It is a fixed-term exclusion which would bring the learner's total number of college days of exclusion to more than 15 in a term
- It would result in a learner missing a public examination

If requested to do so by parents, the governing body will consider the reinstatement of an excluded learner within 50 college days of receiving notice of the exclusion if the learner would be excluded from college for more than 5 college days, but less than 15, in a single term.

Where an exclusion would result in a learner missing a public examination, the governing body will consider the reinstatement of the learner before the date of the examination. If this is not practicable, the governing body will consider the exclusion and decide whether or not to reinstate the learner.

The governing body can either:

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

In reaching a decision, the governing body consider whether the exclusion was lawful, reasonable and procedurally fair and whether the Director of College followed their legal duties. They will decide whether or not a fact is true 'on the balance of probabilities', which differs from the criminal standard of 'beyond reasonable doubt', as well as any evidence that was presented in relation to the decision to exclude.

Minutes will be taken of the meeting, and a record of evidence considered kept. The outcome will also be recorded on the learner's educational record.

The governing body will notify, in writing, the Director of College, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the governing body decision will also include the following:

- The fact that it is permanent
- Notice of parents' right to ask for the decision to be reviewed by an independent review panel, and:
  - The date by which an application for an independent review must be made
  - The name and address to whom an application for a review should be submitted
  - That any application should set out the grounds on which it is being made and that, where appropriate, reference to how the learner's SEN are considered to be relevant to the exclusion
  - That, regardless of whether the excluded learner has recognised SEN, parents have a right to require the academy trust to appoint an SEN expert to attend the review

- Details of the role of the SEN expert and that there would be no cost to parents for this appointment
- That parents must make clear if they wish for an SEN expert to be appointed in any application for a review
- That parents may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents may also bring a friend to the review
- That if parents believe that the exclusion has occurred as a result of discrimination, they may make a claim under the Equality Act 2010 to the first-tier tribunal (special educational needs and disability), in the case of disability discrimination, or the county court, in the case of other forms of discrimination. A claim of discrimination made under these routes should be lodged within 6 months of the date on which the discrimination is alleged to have taken place

## **7. An independent review**

If parents apply for an independent review, the academy trust will arrange for an independent panel to review the decision of the governing board not to reinstate a permanently excluded learner.

Applications for an independent review must be made within 15 college days of notice being given to the parents by the governing body of its decision to not reinstate a learner.

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

- A lay member to chair the panel who has not worked in any college in a paid capacity, disregarding any experience as a college governor or volunteer
- College 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 Director of College during this time
- Director of College or individuals who have been a Director of College within the last 5 years

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

- Are a director of the academy trust, or governing board of the excluding college
- Are the Director of College of the excluding college, or have held this position in the last 5 years
- Are an employee of the trust or the governing board, of the excluding college (unless they are employed as a Director of College at another college)

- Have, or at any time have had, any connection with the trust, college, governing board, parents or learner, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality
- Have not had the required training within the last 2 years (see appendix 1 for what training must cover)

A clerk will be appointed to the panel.

The independent panel will decide one of the following:

- Uphold the governing board's decision
- Recommend that the governing board reconsiders reinstatement
- Quash the governing board'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.

## **8. College registers**

A learner's name will be removed from the college admissions register if:

- 15 college days have passed since the parents were notified of the exclusion panel's decision to not reinstate the learner and no application has been made for an independent review panel, or
- The parents have stated in writing that they will not be applying for an independent review panel

Where an application for an independent review has been made, the governing board will wait until that review has concluded before removing a learner's name from the register.

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

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

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

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

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

- Agreeing a behaviour contract
- Putting a learner 'on report'
- Internal isolation



## **10. Monitoring arrangements**

At Creating Tomorrow College the Director of College monitors the number of exclusions every term and reports back to the Strategic Lead for the College, who reports to the CEO and governors. They also liaise with the local authority to ensure suitable full-time education for excluded learners.

This policy will be reviewed by Kevin Latham every two years. At every review, the policy will be shared with the governing board.

## **11. Links with other policies**

This exclusions policy is linked to our

- Relationship (Behaviour) policy
- SEN policy and information report

## Appendix 1: Independent review panel training

The academy trust must ensure that all members of an independent review panel and clerks have received training within the 2 years prior to the date of the review.

Training must have covered:

- The requirements of the primary legislation, regulations and statutory guidance governing exclusions, which would include an understanding of how the principles applicable in an application for judicial review relate to the panel's decision making
- The need for the panel to observe procedural fairness and the rules of natural justice

- The role of the chair and the clerk of a review panel
- The duties of Director of College, governing boards and the panel under the Equality Act 2010
- The effect of section 6 of the Human Rights Act 1998 (acts of public authorities unlawful if not compatible with certain human rights) and the need to act in a manner compatible with human rights protected by that Act