

Exclusions Policy



@MediaCityUK

Approved: September 2015

Review Date: September 2018

Aims

The UTC@MediaCityUK recognises the right of every child to an education and is an inclusive school which seeks to resolve any behavioural issues without exclusion. Exclusion is only used as a last resort. Exclusions Policy should be read in conjunction with the Behaviour for Learning Policy. The policy is designed to meet the principles and guidance in the DfE "Exclusions from maintained school, Academies and PRUs in England".

1. Objectives

The UTC@MediaCityUK will:

- Create a culture of good behaviour in its students
- Create a safe environment for students to learn in
- Support any staff and students involved in incidents that take place at the UTC@MediaCityUK

The UTC@MediaCityUK uses a range of sanctions to discourage inappropriate behaviour. Exclusions will only be used when all other strategies have been explored, except in the case where a student is involved in a one-off serious incident. A permanent exclusion will only occur in the event of 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.

2. Types of exclusions

Different types of exclusions are used at UTC@MediaCityUK depending on the seriousness of the incident or the student's previous behaviour record, these can be fixed term and permanent.. The basic principle of the exclusion is to remove the student from lessons for a period of time with the intention to reintegrate the student as soon as possible. The behaviour of students outside school can be considered as grounds for exclusion. The behaviour of students with employers or clients can be considered as grounds for exclusion.

Any exclusions must be lawful, reasonable and fair, and demonstrate fair treatment to all students. Where there are concerns about a student at the UTC@MediaCityUK's disruptive behaviour, the school will work to identify causal factors behind the behaviour, and take a multi-agency approach to resolving the underlying issues. All interventions and actions will be recorded on 'schoolbase' (the MIS data base) to demonstrate the steps that have been taken.

Type	Nature	Period	Contact with parent or guardian/guardian
Exclusion A	Internal	One day	Phone call home
Exclusion B	Fixed term	5 days or less	Meeting with Principal and /or Director of Teaching and Progress
Exclusion C	Fixed term	5 days plus	Meeting with Governors' Disciplinary Committee and Principal
Exclusion D	Permanent exclusion	Permanent	Meeting with Governors' Disciplinary Committee and Principal

During the a fixed term exclusion period for the first 5 days the school will set work and if the fixed term exclusion extends beyond 5 days, alternative arrangements for the student's education will be made.

Whilst an excluded student's name remains on a school's admissions register the student will be marked using an appropriate attendance code. Where alternative provision has been made that meets the requirements of the student registration regulations, and the student attends it, an appropriate attendance code, will be used. Where students are not attending alternative provision they will be marked absent.

3. Reintegration

At the reintegration meeting strategies will be explored to help ensure that the student can work effectively and maintain our high expectations. This will take place with the Deputy or with the Principal depending on the severity of the exclusion. A parent or guardian must be present at the reintegration meeting.

If a student has been involved in a number of fixed term exclusions they will be placed on a Pastoral Support Plan (PSP). The plan will be used to set out our expectations and agree targets for future improvement. The PSP will be agreed between the UTC@MediaCityUK, student and their parent or guardian. The PSP will be reviewed and modified periodically. A student will not be excluded for more than 45 days in a school year.

4. Contact with Parents or Guardians

Parents (or guardians) will be contacted by the Deputy or the Principal on the day of the incident to explain the UTC@MediaCityUK's decision to use exclusion. At the end of any exclusion the parent or guardian will be contacted again to discuss the reasons for the exclusion and explore strategies to ensure more positive behaviour in the future. They will additionally receive a letter home signed by the Principal, or in the Principal's absence, the Deputy.

This letter will include:

- the reasons for the exclusion;
- the period of a fixed term exclusion or, for a permanent exclusion, the fact that it is permanent;
- parent or guardian's right to make representations about the exclusion to the governing body and how the student may be involved in this;
- how any representations should be made; and, where there is a legal requirement for the governing body to consider the exclusion, that the parents or guardians have a right to attend a meeting, be represented at this meeting (at their own expense) and to bring a friend.

The Principal will ensure that information provided to parents or guardians is clear and easily understood. Where the parent or guardian's first language is not English consideration will be given, where practical, to translating the letter or taking additional steps to ensure that the details of the exclusion and parents or guardians' right to make representations to the governing body have been understood.

5. Permanent exclusion

In the event of a permanent exclusion, an exclusion lasting longer than 5 days, or an exclusion during a national exam the Principal will notify the governing body who will decide whether to uphold the Principal's decision (see appendix 1).

6. Appealing a Decision

If a parent or guardian makes an allegation of discrimination about either a fixed or permanent exclusion they may make this claim before the First-tier tribunal (in the case of disability discrimination) or a County Court (for all other forms of discrimination). Claims of discrimination to the First-tier Tribunal or County Court can be made up to six months after the discrimination is alleged to have occurred.

If the parent or guardian (or excluded student over 18) dispute the decision to permanently exclude a student, they can request that the decision is reviewed by an independent review panel. Whether or not the student has a recognised special educational need all parent or guardians or guardians have the right to request an SEN expert to be present at the review panel. The SEN expert provides impartial advice to the panel about anything that could be relevant to the student's exclusion.

An independent review panel does not have the power to direct a governing body to reinstate an excluded student. However, where a panel decides that a governing body's decision is flawed, when considered in the light of the principles applicable on an application for judicial review, it can direct a governing body to reconsider its decision.

If the governing body does not subsequently offer to reinstate a student, the panel will be expected to order that the school makes an additional payment of £4,000. This payment will go to the local authority towards the costs of providing alternative provision. (See Appendix 2)

7. The Principal

Only the Principal has the power to permanently exclude a child, and therefore they are responsible for making the decision. However, where practical, the Principal will give students an opportunity to present their case before taking the decision to exclude.

When establishing the facts in relation to an exclusion decision the Principal must 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 Principal will make a full report, and minutes of any meetings regarding any student exclusions. This will be stored by the Clerk to the Governors who will ensure that there is a full report of the incident and the processes of the exclusion.

8. Governing Body

The Governing Body will be notified by the Principal, without delay, in the event of:

- a permanent exclusion (including where a fixed period exclusion is made permanent);
- an exclusion which would result in the student being excluded for more than five school days (or more than ten lunchtimes) in a term
- any exclusion which would result in the student missing a public examination or national curriculum test.

Notifications must include the reasons for the exclusion and the duration of any fixed period exclusion. In addition, within 14 days of a request, governing bodies must provide to the Secretary of State with information about any exclusions within the last 12 months.

Appendix 1- The Governing Body Panel

In these incidents the governing body will consider the exclusion, taking into consideration 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.

The governing body must also consider any representations made by:

- parent or guardian;
- the Principal

When establishing the facts in relation to an exclusion decision the governing body must 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 governing body can either:

- uphold an exclusion; or
- direct reinstatement of the student immediately or on a particular date

Where reinstatement is not practical because, for example, the student has already returned to school following the expiry of a fixed period exclusion, or the parent or guardian make clear they do not want their child reinstated, the governing body must, in any event, consider whether the Principal's decision to exclude the child was justified based on the evidence.

The governing body will ensure that clear minutes are taken of the meeting by the clerk as a record of the evidence that was considered by the governing body and made available to all parties on request.

The governing body should ask all parties to withdraw before making a decision. Where present a clerk may stay to help the governing body by reference to his / her notes of the meeting and with the wording of the decision letter. In reaching a decision on whether or not to reinstate a student, the governing body should consider whether the decision to exclude the student was lawful, reasonable and procedurally fair, taking account of the Principal's legal duties. The governing body should note the outcome of their consideration on the student's educational record, along with copies of relevant papers for future reference.

In cases where the governing body considers parent or guardian representations but does not have the power to direct a student's reinstatement, they should consider whether it would be appropriate to place a note of their findings on the student's educational record. Where legally required to consider an exclusion, the governing body must notify parent or guardian, the Principal and the local authority of their decision, and the reasons for their decision, in writing and without delay. Where the student resides in a different local authority from the one that maintains the school, the governing body must also inform the student's 'home authority'.

In the case of a permanent exclusion the governing body's notification must also include the information below.

- The fact that it is permanent.
- Notice of parent or guardian's right to ask for the decision to be reviewed by an independent review panel and the following information:
 - a) the date by which an application for a review must be made (i.e. 15 school days from the date on which notice in writing of the governing body's decision was given to parents or guardians;

- b) the name and address to whom an application for a review (and any written evidence) should be submitted;
 - c) that any application should set out the grounds on which it is being made and that, where appropriate, this should include a reference to how the student's special educational needs are considered to be relevant to the exclusion;
 - d) that, regardless of whether the excluded student has recognised special educational needs, parents, or guardians, have a right to require the UTC@MediaCityUK to appoint an SEN expert to attend the review;
 - e) details of the role of the SEN expert and that there would be no cost to parent or guardian for this appointment;
 - f) that parents, or guardians, must make clear if they wish for an SEN expert to be appointed in any application for a review; and
 - g) that parents, or guardians, may, at their own expense, appoint someone to make written and / or oral representations to the panel and that parents, or guardians, may also bring a friend to the review.
- That, in addition to the right to apply for an independent review panel, if parents or guardians believe that the exclusion has occurred as a result of discrimination then 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.
 - That a claim of discrimination made under these routes should be lodged within six months of the date on which the discrimination is alleged to have taken place, e.g. the day on which the student was excluded.

The governing body should set out the reasons for their decision in sufficient detail to enable all parties to understand why the decision was made.

This information should be included in the letter notifying parents or guardians of a decision to uphold an exclusion and should include:

- a link to this statutory guidance on exclusions: exclusion guidance;
- a link to guidance on making a claim of discrimination to the First-tier Tribunal <http://www.justice.gov.uk/tribunals/send/appeals>;
- a link to the Coram Children's Legal Centre: www.childrenslegalcentre.com 08088 020 008; and,
- where considered relevant by the governing body, links to local services, such as Traveller Education Services or the local parent partnership (www.parentpartnership.org.uk).

Appendix 2- The Appeal Panel

The UTC@MediaCityUK Trust must constitute the panel with either three or five members representing each of the three categories below. A five member panel must be constituted with two members from each of the categories of school governors and head teachers.

- 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 five years, provided they have not been teachers or head teachers during this time.
- Head teachers or individuals who have been a head teacher within the last five years.

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

- are a member / director of the local authority / UTC Trust or governing body of the excluding school;
- are the Principal of the excluding school or anyone who has held this position in the last five years;
- are an employee of the UTC Trust, or the governing body, of the excluding school (unless they are employed as a head teacher at another school);
- have, or at any time have had, any connection with the UTC Trust; UTC@MediaCityUK; parent or guardians or guardians or student; 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 two years

The UTC trust must make arrangements to indemnify panel members against any legal costs and expenses reasonably incurred as a result of any decisions or actions connected to the review which are taken in good faith.

Every care should be taken to avoid bias or an appearance of bias. The Trust should request that prospective panel members declare any conflict of interest at the earliest opportunity.

Appendix 3- The Clerk

The clerk should not have served as clerk to the governing body meeting. In addition to the training required by law, clerks should have an up-to-date understanding of developments in case law, legislation and guidance which are relevant to exclusion.

The clerk must perform the following additional functions:

Make reasonable efforts to inform the following people that they are entitled to: make written representations to the panel; attend and make oral representations to the panel; be represented; and (in the case of a parent or guardian), to bring a friend:

- a) the parent or guardian;
- b) the Principal (where an excluding head teacher has left the school, the panel may use its discretion in deciding whether also to invite this person to make representations);
- c) the governing body; and
- d) the local authority (in the case of a maintained school or student referral unit)

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 must include:

- a) the governing body's decision;
- b) the parent or guardian's application for a review; and
- c) any policies or documents that the governing body was required to have regard to making their decision.
- d) Give all parties details of those attending and their role, once the position is clear.
- e) Attend the review and ensure that minutes are produced in accordance with instructions from the panel. Where a clerk is not appointed the functions become the responsibility of the local authority / Academy Trust.

Where a clerk is not appointed, the UTC Trust should consider what additional steps it may need to take to ensure that the independent review panel is administered properly.

The clerk should identify in advance of the meeting whether the student will be attending.

Where an excluded student is attending the hearing, consideration should be given in advance as to the steps that will be taken to support his / her participation. If the excluded student is not attending it should be made clear that he / she may feed in their views through a representative or by submitting a written statement.

In order to review the governing body's decision the panel will generally need to hear from those involved in the incident, or incidents, leading to the exclusion. The clerk should also try to ascertain whether an alleged victim, if there is one, wishes to be given a voice at the review. This could be in person, through a representative or by submitting a written statement.

In the case of witnesses who are students of the school it will normally be more appropriate for the panel to rely on written statements. Students may appear as witnesses if they do so voluntarily and with their parent or guardian's consent. In such cases, that student's parent or guardian should be invited to attend the meeting in support of their child.

Where character witnesses are proposed the clerk should seek the agreement of the panel, but this should be allowed unless there is good reason to refuse.

All written witness statements should be attributed, signed and dated, unless the school has good reason to wish to protect the anonymity of the witness, in which case the statement should at least be dated and labelled in a way that allows it to be distinguished from other statements. The general principle remains that excluded students are entitled to know the substance behind the reason for their exclusion.

Parties attending the hearing have the right to be represented. Representatives may make written or oral representations to the panel. If any of the parties wish to bring more than one friend or representative, the clerk should seek the panel's agreement in advance, having regard to a reasonable limit on numbers attending the review. However, all parents or guardians may attend, if they wish to do so, and each can make representations and be represented.

In addition to written witness statements, the clerk should request written evidence from the school in order to circulate it in advance of the meeting, such as policies and documents of the school which the governing body would reasonably have been expected to take account of in reaching their decision on the exclusion.

Where the school's case rests largely or solely on physical evidence, and where the facts are in dispute, then the physical evidence, if practicable, should be retained and be available to the panel. Where there are difficulties in retaining physical evidence, photographs or signed witness statements should be used.

The clerk should notify the panel where requested documents have not been provided so that the panel can take a decision on whether to adjourn the hearing.

The clerk to a review panel should ensure that minutes of the proceedings are taken, including details of the attendance, the voting and the decision. The minutes are not public documents but should be retained by the UTC Trust for a period of at least five years, as they may need to be seen by a court.

Appendix 4- The SEN expert

The SEN expert should be a professional with first-hand experience of the assessment and support of SEN, as well as an understanding of the legal requirements on schools in relation to SEN and disability. Examples of suitable individuals might include educational psychologists; specialist SEN teachers; special educational needs coordinators (SENCOs); and behaviour support teachers. Recently retired individuals are not precluded from fulfilling this role, though the local authority / UTC Trust would need to assure themselves that the individual had a good understanding of current practice and the legal requirements on schools in relation to SEN.

Whilst individuals are not automatically taken to be partial simply because they are an employee of, or contracted by a UTC Trust, they should not have had any previous involvement in the assessment or support of SEN for the excluded student, or siblings of the excluded student. The UTC Trust should request that prospective SEN experts declare any conflict of interest at the earliest opportunity.

The final decision on the appointment of an SEN expert is for the UTC Trust to make but it should take reasonable steps to ensure that parents or guardians have confidence in the impartiality and capability of the SEN expert. Where possible, this may include offering parent or guardians or guardians a choice of SEN expert. In order to meet its duties within the statutory time frame, the UTC Trust should consider maintaining a list of individuals capable of performing the role of SEN expert in advance of a request.

It is for the UTC Trust to determine the amount of any payment in relation to the appointment of the SEN expert, such as financial loss, travel and subsistence allowances.

The SEN expert's role is analogous to an expert witness, providing impartial advice to the panel on how special educational needs might be relevant to the exclusion. The SEN expert should base their advice on the evidence provided to the panel. The SEN expert's role does not include making an assessment of the student's special educational needs.

The focus of the SEN expert's advice should be on whether the school's policies which relate to SEN, or the application of these policies in relation to the excluded student, were legal, reasonable and procedurally fair. If the SEN expert believes that this was not the case he / she should, where possible, advise the panel on the possible contribution that this could have made to the circumstances of the student's exclusion.

Where the school does not recognise that a student has SEN, the SEN expert should advise the panel on whether he / she believes the school acted in a legal, reasonable and procedurally fair way with respect to the identification of any special educational needs that the student may potentially have, and any contribution that this could have made to the circumstances of the student's exclusion.

The SEN expert should not criticise a school's policies or actions simply because he / she believes a different approach should have been followed or because another school might have taken a different approach.

Appendix 5- The Panel

The role of the panel is to review the governing body's decision not to reinstate a permanently excluded student. In reviewing the decision the panel must 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.

The panel must 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'.

Following its review the panel can decide to:

- uphold the exclusion decision;
- recommend that the governing body reconsiders their decision,

Or

- quash the decision and direct that the governing body 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; parent or guardian; governing body; Principal; local authority; and UTC 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 governing body'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 governing body at the time of making their decision. This includes any evidence which the panel considers would, or should, have been available to the governing body if they had been acting reasonably.

If evidence is presented that the panel considers is unreasonable to have expected the governing body 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 governing body reconsider their decision.

The chair should outline the procedure to be followed and explain to all parties that the panel is independent of the school and the UTC Trust.

The panel should support all parties to participate in the review and ensure that their views are properly heard. The independent review should be conducted in an accessible, non-threatening and non-adversarial manner.

It is for the panel to decide whether any witnesses should stay for the rest of the review, but they should not be present before giving evidence. In the interests of propriety, care should be taken to ensure that no party, other than the clerk, is present with the panel in the absence of the other parties. This includes the SEN expert. The panel should ask all parties, apart from the clerk, to withdraw before making a decision. The clerk may stay to help the panel by referring to the notes of the meeting and providing advice on the wording of the decision letter.

When considering the governing body's decision in light of the principles applicable in an application for judicial review, the panel should apply the following tests:

- Illegality – did the Principal and / or governing body act outside the scope of their legal powers in taking the decision to exclude?
- Irrationality – was the decision of the governing body not to reinstate the student so unreasonable that it was not one a sensible person could have made?
- Procedural impropriety – was the process of exclusion and the governing body’s consideration so unfair or flawed that justice was clearly not done?

Procedural impropriety means not simply a breach of minor points of procedure but something more substantive that has a significant impact on the quality of the decision making process. This will be a judgement for the panel to make but the following are examples of the types of things that could give rise to procedural impropriety: bias; failing to notify parent or guardians of their right to make representations; the governing body making a decision without having given parents or guardians an opportunity to make representations; failing to give reasons for a decision; or being a judge in your own cause (for example, if the head teacher who took the decision to exclude were also to vote on whether to uphold the exclusion).

Where the criteria for quashing a decision have not been met the panel should consider whether it would be appropriate to recommend that a governing body reconsiders their decision not to reinstate the student. This should not be the default option, but should be used where evidence or procedural flaws have been identified that do not meet the criteria for quashing the decision but which the panel believe justify a reconsideration of the governing body’s decision. In all other cases the panel should uphold the exclusion.

Where the panel has quashed the governing body’s decision, the panel should order that the UTC must make a payment directly to the local authority in which the UTC is located, unless the governing body offer to reinstate the student.

The panel should order that payment is due automatically if the governing body has not offered to reinstate the excluded student within 10 school days of being notified of a direction to reconsider. The panel does not have to reconvene to issue this order.

Monitoring and Review

The implementation of this policy throughout the UTC@MediaCityUK will be reviewed annually, with all relevant changes clearly identified and a report made to the Governing Body by the Principal.

Approval by Governing Body and Review Date

This policy has been formally approved and adopted by the Governing Body at a formally convened meeting.

Signed: _____ (Chair of Governing Body)

Date: _____ Review date: _____