

## Vanguard Learning Trust



*As a group of local primary and secondary schools, Vanguard Learning Trust's mission is to serve its local community by providing outstanding, inclusive education. We have a collective purpose and responsibility to provide effective teaching, through a curriculum based on equality of opportunity and entitlement that allows our students to shine both in and out of the classroom. Each school in the Trust has its own ethos, which also complements the Trust's vision and values, and the common aspiration that all students can achieve their potential.*

# Exclusion Policy

## January 2023

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## **1. Introduction**

### **1.1**

#### Introduction:

At Hermitage Primary School, good behaviour is essential to ensure that all pupils benefit from all the opportunities we provide. The government recognises that school exclusions, managed moves and off-site direction can be an essential behaviour management tools for headteachers and can be used to establish high standards of behaviour in schools and maintain the safety of school communities. For the vast majority of pupils, suspensions and permanent exclusions may not be necessary, as other strategies can manage behaviour. However, if approaches towards behaviour management have been exhausted, then suspensions and permanent exclusions will sometimes be necessary as a last resort. This is to ensure that other pupils and teaching staff are protected from disruption and can learn in safe, calm, and supportive environments.

### **1.2**

#### Definitions:

##### **Internal Seclusions**

The school seeks to minimise exclusions and will only do this as a last resort. However, if step 4 on the behaviour policy has been reached, the Headteacher may decide that an internal seclusion is warranted. The child will spend part or the whole day out of class, supervised by a member of the leadership team. Work will be provided by the class teacher for the child to complete independently. The parent will be informed. At the end of the seclusion, both parent and child will be invited to a re-integration meeting upon their first day back at school. At the meeting key strategies to support the child's behaviour will be discussed and agreed. The meeting will be led by a member of the leadership team.

##### **Suspension**

A suspension is for a set number of school days, between one and 45 days in an academic year. The number of days will be stated in the letter that the Headteacher has sent you. The suspension is temporary and your child will return to school at the end of the suspension. Please note that the number of days stated by the Headteacher relates only to school days and not weekends, holidays and teacher training days. A suspension can also be for parts of the school day. For example, if a pupil's behaviour at lunchtime is disruptive, they may be suspended from the school premises for the duration of the lunchtime period. The legal requirements relating to the suspension, such as the headteacher's duty to notify parents, apply in all cases. Lunchtime suspensions are counted as half a school day in determining whether a local governing body meeting is triggered.

##### **Permanent exclusion**

This means that the Headteacher has decided that your child should not return to the school. Permanent exclusion will only be used as a last resort, in response to a serious breach, or persistent breaches, of the school's behaviour policy; and where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others such as staff or pupils in the school. The law does not allow for extending a suspension or 'converting' a suspension into a permanent exclusion. In exceptional cases, usually where further evidence has come to light, a further suspension may be issued to begin immediately after the first period ends; or a permanent exclusion may be issued to begin immediately after the end of the suspension.

### 1.3

#### Aims:

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

Our school aims to:

- Ensure that the exclusions process is applied fairly and consistently
- Help governors, staff, parents and pupils understand the exclusions process
- Ensure that pupils in school are safe and happy
- Prevent pupils from becoming NEET (not in education, employment or training)
- Ensure all suspensions and permanent exclusions are carried out lawfully

## 2. Statutory Requirements

### 2.1

#### Legislation

This policy is based on statutory guidance from the Department for Education: [Suspension and permanent exclusion from maintained schools, academies and pupil referral units in England, including pupil movement](#).

It is based on the following legislation, which outlines schools' powers to exclude pupils:

- Section 51a 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 sets out parental responsibility for excluded pupils:

- 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 Equality Act 2010](#)
- [Children and Families Act 2014](#)

### 2.2

#### Off-rolling:

At Hermitage Primary School, we are aware that off-rolling is unlawful. Ofsted defines off-rolling as:

*"The practice of removing a pupil from the school roll without a formal, permanent exclusion or by encouraging a parent to remove their child from the school roll, when the removal is primarily in the interests of the school rather than in the best interests of the pupil."*

We will not suspend or exclude pupils unlawfully by directing them off site, or not allowing pupils to attend school:

- Without following the statutory procedure or formally recording the event, e.g. sending them home to 'cool off'
- Because they have special educational needs and/or a disability (SEND) that the school feels unable to

support

- Due to poor academic performance
- Because they haven't met a specific condition, such as attending a reintegration meeting
- By exerting undue influence on a parent to encourage them to remove their child from the school.

## 2.3

### Roles and responsibilities:

Only the headteacher, or acting headteacher, can exclude a pupil from school. A permanent exclusion will only ever be taken as a last resort.

A decision to exclude a pupil will be taken only:

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

Before deciding whether to exclude a pupil, either permanently or for a suspension, the headteacher will:

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

Only the headteacher or acting headteacher of a school can suspend or permanently exclude a pupil on disciplinary grounds. A pupil may either be suspended for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or permanently excluded. It is important to state that a pupil's behaviour outside school can be considered grounds for a suspension or permanent exclusion due to tarnishing the reputation of Hermitage Primary School. Any decision of a headteacher or acting headteacher, including suspension or permanent exclusion, must be made in line with the principles of administrative law, i.e., that it is: lawful (with respect to the legislation relating directly to suspensions and permanent exclusions and a school's wider legal duties); reasonable; fair; and proportionate. When establishing the facts in relation to a suspension or permanent exclusion decision the headteacher 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.' This means that the headteacher or acting headteacher should accept that something happened if it is more likely that it happened than that it did not happen. The headteacher must take account of their legal duty of care when sending a pupil home following an exclusion. Headteachers should also take the pupil's views into account, considering these in light of their age and understanding, before deciding to exclude, unless it would not be appropriate to do so. They should inform the pupil about how their views have been factored into any decision made. Where relevant, the pupil should be given support to express their view, including through advocates such as parents or, if the pupil has one, a social worker. Whilst an exclusion may still be an appropriate sanction, the headteacher should also take account of any contributing factors identified after an incident of misbehaviour has occurred and consider paragraph 45 of the Behaviour in Schools guidance.

## 3. Disseminating Information

### 3.1

#### To parents:

If a pupil is at risk of suspension or exclusion the headteacher or acting headteacher will inform the parents as early as possible, in order to work together to consider what factors may be affecting the pupil's behaviour, and what further support can be put in place to improve the behaviour.

If the headteacher decides to suspend or exclude a pupil, the parents will be informed of the period of the suspension or exclusion and the reason(s) for it, at the earliest opportunity.

The parents will also be provided with the following information in writing:

- The reason(s) for the suspension or exclusion
- The length of the suspension or, for a permanent exclusion, the fact that it is permanent
- Information about parents' right to make representations about the suspension or permanent exclusion to the local governing body and how the pupil may be involved in this
- How any representations should be made
- Where there is a legal requirement for the local governing body to hold a meeting to consider the reinstatement of a pupil, and that parents have a right to attend the meeting, be represented at the meeting (at their own expense) and to bring a friend

The headteacher will also notify parents without delay and by the end of the afternoon session on the first day their child is suspended or permanently excluded, that:

- For the first 5 school days of an exclusion (or until the start date of any alternative provision or the end of the suspension, where this is earlier), the parents are legally required to ensure that their child is not present in a public place during school hours without a good reason. This will include specifying on which days this duty applies
- 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, if possible:

- 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 the pupil needs in order to identify the person they should report to on the first day

If the headteacher or acting headteacher does not have all the information about the alternative provision arrangements by the end of the afternoon session on the first day of the suspension or permanent exclusion, they can provide the information at a later date, without delay and 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 a suspension or permanent exclusion, in which case the school reserves the right to provide the information with less than 48 hours' notice, with parents' consent.

### **3.2**

#### To the Trust and Local Governing Body:

The headteacher will, without delay, notify the local governing body of:

- Any permanent exclusion, including when a suspension is followed by a decision to permanently exclude a pupil

- Any suspension or permanent exclusion which would result in the pupil being suspended or permanently excluded for a total of more than 5 school days (or more than 10 lunchtimes) in a term
- Any suspension or permanent exclusion which would result in the pupil missing a National Curriculum test or public exam

The headteacher will notify the local governing body once per term of any other suspensions of which they have not previously been notified, and the number of suspensions and exclusions which have been cancelled, including the circumstances and reasons for the cancellation.

### **3.3**

#### To the Local Authority:

The headteacher will notify the LA of all suspensions and permanent exclusions without delay, regardless of the length of a suspension.

The notification will include:

- The reason(s) for the suspension or permanent exclusion
- The length of a suspension or, for a permanent exclusion, the fact that it is permanent

For a permanent exclusion, if the pupil lives outside the LA in which the school is located, the headteacher will also, without delay, inform the pupil's 'home authority' of the exclusion and the reason(s) for it.

### **3.4**

#### To a pupil's social worker and/or virtual school head (VSH):

If a:

- Pupil with a social worker is at risk of suspension or permanent exclusion, the headteacher will inform the social worker as early as possible
- Pupil who is a looked-after child (LAC) is at risk of suspension or exclusion, the headteacher will inform the VSH as early as possible

This is in order to work together to consider what factors may be affecting the pupil's behaviour, and what further support can be put in place to improve the behaviour.

If the headteacher decides to suspend or permanently exclude a pupil with a social worker / a pupil who is looked after, they will inform the pupil's social worker / the VSH, as appropriate, without delay, that:

- They have decided to suspend or permanently exclude the pupil
- The reason(s) for the decision
- The length of the suspension or, for a permanent exclusion, the fact that it is permanent
- The suspension or permanent exclusion affects the pupil's ability to sit a National Curriculum test or public exam (where relevant)

The social worker / VSH will be invited to any meeting of the local governing body about the suspension or permanent exclusion. This is so they can provide advice on how the pupil's background and/or circumstances may have influenced the circumstances of their suspension or permanent exclusion. The social worker should also help ensure safeguarding needs and risks and the pupil's welfare are taken into account.

## **4. Local Governing Body**

### **4.1**

#### Considering suspensions and permanent exclusions:

The Vanguard Learning Trust, alongside Hermitage Primary School has a duty to consider parents' understanding of suspension or permanent exclusion. They have a duty to consider the reinstatement of a suspended or permanently excluded pupil in certain circumstances.

Within 14 days of receiving a request to reinstate a pupil, the local governing body will provide the headteacher or acting headteacher with information about any suspensions or exclusions within the last 12 months.

For any suspension of more than 5 school days, the local governing body will arrange suitable full-time education for the pupil. This provision will begin no later than the sixth day of the suspension.

For permanent exclusions, the LA will arrange suitable full-time education to begin no later than the sixth school day after the first day of the exclusion.

For pupils who are LAC or have social workers, the Local Authority and the school will work together to arrange suitable full-time education to begin from the first day of the exclusion.

### **4.2**

#### Considering the reinstatement of a pupil:

The local governing body will consider and decide on the reinstatement of a suspended or permanently excluded pupil within 15 school days of receiving the notice of the suspension or exclusion if:

- The exclusion is permanent
- It is a suspension which would bring the pupil's total number of days out of school to more than 15 in a term
- It would result in a pupil missing a public exam or National Curriculum test

Where the pupil has been suspended, and the suspension does not bring the pupil's total number of days of suspension to more than 5 in a term, the local governing body must consider any representations made by parents. However, it is not required to arrange a meeting with parents and it cannot direct the headteacher to reinstate the pupil.

Where the pupil has been suspended for more than 5 days, but less than 16 days, in a single term, and the parents make representations to the board, the local governing body will consider and decide on the reinstatement of a suspended pupil within 50 school days of receiving notice of the suspension. If the parents do not make representations, the local governing body is not required to meet and it cannot direct the headteacher to reinstate the pupil.

Where a suspension or permanent exclusion would result in a pupil missing a public exam or National Curriculum test, the local governing body will, as far as reasonably practicable, consider and decide on the reinstatement of the pupil before the date of the exam or test. If this is not practicable, the headteacher or acting headteacher may consider the suspension or permanent exclusion and decide whether or not to reinstate the pupil.

The following parties will be invited to a meeting of the local governing body and allowed to make representations or share information:



- Parents
- The pupil, if they are aged 17 or younger and it would be appropriate to their age and understanding (and, where requested, a representative or friend)
- The headteacher
- The pupil's social worker, if they have one
- The VSH, if the pupil is looked after

The local governing body will try to arrange the meeting within the statutory time limits set out above and must try to have it at a time that suits all relevant parties. However, its decision will not be invalid simply on the grounds that it was not made within these time limits.

The local governing body can either:

- Decline to reinstate the pupil, or
- Direct the reinstatement of the pupil immediately, or on a particular date (except in cases where the board cannot do this – see earlier in this section)

In reaching a decision, the local governing body will consider:

- Whether the decision to suspend or permanently exclude was lawful, reasonable, and procedurally fair
- Whether the headteacher followed their legal duties
- The welfare and safeguarding of the pupil and their peers
- Any evidence that was presented to the local governing body

They will decide whether or not a fact is true 'on the balance of probabilities'.

Minutes will be taken of the meeting, and a record kept of the evidence that was considered. The outcome will also be recorded on the pupil's educational record, and copies of relevant papers will be kept with this record.

The local governing body will notify, in writing, the following stakeholders of its decision, along with reasons for its decision, without delay:

- The parents, or the pupil, if they are 18 or older
- The headteacher
- The pupil's social worker, if they have one
- The VSH, if the pupil is looked after
- The local authority
- The pupil's home authority, if it differs from the school's

Where an exclusion is permanent and the local governing body, along with the headteacher or acting headteacher has decided not to reinstate the pupil, the notification of decision will also include the following:

- The fact that it is a permanent exclusion
- Notice of parents' right to ask for the decision to be reviewed by an independent review panel
- The date by which an application for an independent review must be made (15 school days from the date on which notice in writing of the local governing body's decision is given to parents)
- The name and address to which an application for a review and any written evidence should be submitted
- That any application should set out the grounds on which it is being made and that, where appropriate, it should include reference to how the pupil's special educational needs (SEN) are considered to be relevant to the permanent exclusion
- That, regardless of whether the excluded pupil has recognised SEND, parents have a right to

- require the [LA/academy trust] 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 must make clear if they wish for an SEND 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 permanent exclusion has occurred as a result of unlawful 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. Also that any 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

### 4.3

#### Independent Review:

If parents apply for an independent review within the legal timeframe, the Vanguard Learning Trust will arrange for an independent panel to review the decision of the local governing body not to reinstate a permanently excluded pupil.

Applications for an independent review must be made within 15 school days of notice being given to the parents by the local governing body of its decision to not reinstate the pupil or, if after this time, within 15 school days of the final determination of a claim of discrimination under the Equality Act 2010 regarding the permanent exclusion.

A panel of no less than 3 members will be constituted with representatives from each of the categories below. At all times during the review process, Hermitage Primary School will ensure there is the required representation on the panel.

1. 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
2. Current or former 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 headteacher or acting headteacher during this time
3. Headteachers or acting headteacher 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 member of the Vanguard Learning Trust of the excluding school
- Are the headteacher of the excluding school, or have held this position in the last 5 years
- Are an employee of the Vanguard Learning Trust, or the local governing body, of the excluding school (unless they are employed as a headteacher at another school)
- Have, or at any time have had, any connection with the Vanguard Learning Trust, Hermitage Primary School, local governing body, parents or pupil, 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)

The panel must consider the interests and circumstances of the pupil, including the circumstances in which the pupil was permanently excluded, and have regard to the interests of other pupils and people working at the school.

Taking into account the pupil's age and understanding, the pupil or their parents will be made aware of their right to attend and participate in the review meeting and the pupil should be enabled to make representations on their own

behalf, should they desire to.

Where a SEND expert is present, the panel must seek and have regard to the SEND expert's view of how SEND may be relevant to the pupil's permanent exclusion.

Where a social worker is present, the panel must have regard to any representation made by the social worker of how the pupil's experiences, needs, safeguarding risks and/or welfare may be relevant to the pupil's permanent exclusion.

Where a VSH is present, the panel must have regard to any representation made by the social worker of how any of the child's background, education and safeguarding needs were considered by the headteacher in the lead up to the permanent exclusion, or are relevant to the pupil's permanent exclusion.

Following its review, the independent panel will decide to do one of the following:

1. Uphold the local governing body's decision
2. Recommend that the local governing body reconsiders reinstatement
3. Quash the local governing body's decision and direct that they reconsider reinstatement (only if it judges that the decision was flawed)

New evidence may be presented, though the school cannot introduce new reasons for the permanent exclusion or the decision not to reinstate. The panel must disregard any new reasons that are introduced.

In deciding whether the decision was flawed, and therefore whether to quash the decision not to reinstate, the panel must only take account of the evidence that was available to the local governing body at the time of making its decision. This includes any evidence that the panel considers would, or should, have been available to the local governing body and that it ought to have considered if it had been acting reasonably.

If evidence is presented that the panel considers it is unreasonable to expect the local governing body to have been aware of at the time of its decision, the panel can take account of the evidence when deciding whether to recommend that the local governing body reconsider reinstatement.

The panel's decision can be decided by a majority vote. In the case of a tied decision, the chair has the casting vote.

Once the panel has reached its decision, the panel will notify all parties in writing without delay.

This notification will include:

- The panel's decision and the reasons for it
- Where relevant, details of any financial readjustment or payment to be made if the local governing body does not subsequently decide to offer to reinstate the pupil within 10 school days
- Any information that the panel has directed the local governing body to place on the pupil's educational record

#### **4.4**

##### **School Registers:**

A pupil's name will be removed from the school admission register if:

- 15 school days have passed since the parents were notified of the local governing body's decision to not reinstate the pupil 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 within 15 school days, the local governing body will wait until that review has concluded before removing a pupil's name from the register.

While the pupil's name remains on the school's admission register, the pupil's attendance will still be recorded appropriately. Where alternative provision has been made for an excluded pupil and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.

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

#### **4.5**

##### **Making a return to the Local Authority:**

Where a pupil's name is to be removed from the school admissions register because of a permanent exclusion, the school will make a return to the Local Authority. The return will include:

- The pupil's full name
- The full name and address of any parent with whom the pupil normally resides
- At least one telephone number at which any parent with whom the pupil normally resides can be contacted in an emergency
- The grounds upon which their name is to be deleted from the admissions register (i.e., permanent exclusion)
- Details of the new school the pupil will attend, including the name of that school and the first date when the pupil attended or is due to attend there, if the parents have told the school the pupil is moving to another school
- Details of the pupil's new address, including the new address, the name of the parent(s) the pupil is going to live there with, and the date when the pupil is going to start living there, if the parents have informed the school that the pupil is moving house

This return must be made as soon as the grounds for removal is met and no later than the removal of the pupil's name.

## **5. Returning from a suspension**

### **5.1**

#### **Reintegration Strategy:**

Following suspension, the school will put in place a strategy to help the pupil reintegrate successfully into school life and full-time education.

Where necessary, the school will work with third-party organisations to identify whether the pupil has any unmet special educational and/or health needs.

The following measures may be implemented, as part of the strategy, to ensure a successful reintegration into school life:

- Maintaining regular contact during the suspension or off-site direction and welcoming the pupil back to school
- Daily contact in school with a designated pastoral professional
- Informing the pupil, parents and staff of potential external support
- Agreeing a behaviour contract

- Agreeing a behaviour plan and/or risk assessment, with key strategies of support
- Additional support to minimise inappropriate behaviour
- Structured lunch or break to maximise successful behaviours

Part-time timetables will be utilised as a last resort tool to manage behaviour and, if used, will be put in place for the minimum time necessary. The strategy will be regularly reviewed and adapted where necessary throughout the reintegration process in collaboration with the pupil, parents, and other relevant parties.

## 5.2

### Reintegration Meeting:

The school will explain the reintegration strategy to the pupil in a reintegration meeting before or on the pupil's return to school. During the meeting the school will communicate to the pupil that they are getting a fresh start and that they are a valued member of the school community.

The pupil, parents, a member of senior staff, and any other relevant staff will be invited to attend the meeting.

The meeting can proceed without the parents in the event that they cannot or do not attend but this should be avoided where possible. The school expects all returning pupils and their parents to attend their reintegration meeting, but pupils who do not attend will not be prevented from returning to the classroom.

## 5.3

### Monitoring arrangements:

The school will collect data on the following:

- Attendance, permanent exclusions and suspensions
- Use of pupil referral units, off-site directions and managed moves
- Surveys of all stakeholders on their perceptions and experiences of behaviour in school

The data will be analysed on completion of each survey by the Senior Leadership Team. They will then report back to the local governing body any findings of key importance.

The data will be analysed from a variety of perspectives including:

- At school level
- By age group
- By time of day/week/term
- By protected characteristic

The school will use the results of this analysis to make sure it is meeting its duties under the Equality Act 2010. If any patterns or disparities between groups of pupils are identified by this analysis, the school will review its policies in order to tackle it.

## List of appendices

### Appendix 1: independent review panel training

The Vanguard Learning Trust must make sure 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 suspensions and permanent exclusions on disciplinary grounds, 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, local governing bodys 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

### Approval / Revision History

Revision date	By	Summary of Changes Made
January 2023	Georgia Harling	Adapted to VLT template Updates from DfE Exclusion Guidance September 2022