



# Exclusions Policy



North East Futures UTC has been established to change the education, skills and employment paradigm in our IT and Healthcare Science sectors in the North East. It provides the opportunity for young people from all the communities in this region to benefit from its specialist provision.

The Board of Trustees and all the North East Futures staff are committed to a policy of equality and aim to ensure that all students, employees, job applicants, other member of the UTC community and visitors are treated fairly and with respect.

We aim to give equal access to the high-quality educational opportunities we provide and to ensure that everyone feels that they are a valued member of the UTC community. We seek to create a safe and happy environment where all our students can flourish and where social and cultural diversity are celebrated.

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| Reviewed by:                             | Principal and Local Governing Body   |
| Frequency of policy review:              | Three Years  |
| Lead Sub Committee for discussion:       | Educational Standards  |
| Last Reviewed:                           | May 2018   |
| By Dan Sydes                             |  |
| Ratified by Local Board of Governors on: | 9 <sup>th</sup> May 2019   |
| By Michael Whitaker                      |  |
| Next Review Date:                        | May 2022   |

### 1. Introduction

North East (NE) Futures UTC endeavours to ensure that exclusion procedures conform with statutory guidance set forth by the Department for Education (DfE) in 2012 and updated in September 2017.<sup>1</sup>

### 2. Aims

All parties involved in exclusions, including the Principal, parents, governing bodies and Independent Review Panels, must have regard to the statutory guidance. This policy aims to set rights and responsibilities around exclusion with clarity and in a concise fashion to ensure that all exclusion proceedings at NE Futures UTC are conducted in a fair and just manner, with appropriate notice to all, full participation of relevant parties, and within the statutorily designated timelines.

### 3. Fixed-Term and Permanent Exclusions

Exclusion can only be for a serious breach of an UTC's behaviour policy or code of conduct, which must be widely published to all pupils and parents. There are two types of exclusion: fixed-term (or fixed-period) and permanent.

There is a limit of 45 UTC days in an academic year for fixed-term exclusions. The law does not allow for 'converting' a fixed-term exclusion into a permanent exclusion.

The UTC may issue a fixed-term exclusion pending investigation and, where further evidence has come to light, issue a further fixed-term exclusion to begin immediately after the first exclusion ends; or a permanent exclusion to begin immediately after the end of the fixed-term exclusion.

Permanent exclusions may only be in response to persistent breaches of the UTC's behaviour policy or for a 'one-off' very serious breach of the behaviour policy, where allowing the pupil to remain in UTC will be detrimental to the education and welfare of the pupil and/or others at the UTC.

On the sixth day of an exclusion, the UTC (or local authority, in the event of a permanent exclusion) must arrange suitable full-time education for any pupil of compulsory UTC age. Where a pupil receives consecutive fixed-term exclusions, these are regarded as a cumulative period of exclusion for the purposes of this duty.

A panel of governors must review permanent exclusions and any fixed-term exclusions which result in the pupil being excluded for more than 15 UTC days (singly or cumulatively) within one term. UTCs are responsible for recording exclusions on the UTC's relevant Management Information System (MIS) in a timely manner and keeping careful track of fixed-term exclusions that total more than 15 days in a term.

All exclusions must be reported to the Local Authority wherever requested.

Permanent exclusions must also be reported to the local authority immediately to ensure the local authority will be able to fulfil its duty to provide alternative educational provision from the sixth day of the exclusion.

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<sup>1</sup> Department for Education publication – *Exclusion from Maintained Schools, Academies and Pupil Referral Units in England- Statutory Guidance for those with Legal Responsibilities in Relation to Exclusion* (2017). Available online at <https://www.gov.uk/government/publications/school-exclusion>.

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Exclusions must be reported to governors in the Principal's Report.

### 4. The Principal's Role in Exclusions

Only the Principal or acting Principal may exclude a pupil.

Where a pupil has received multiple exclusions or is approaching the legal limit of 45 UTC days of fixed-term exclusion in an academic year, the Principal should consider whether exclusion is providing an effective sanction.

Exclusions are illegal if they occur for non-disciplinary reasons, such as:

- additional needs or a disability that the UTC feels it is unable to meet;
- lack of academic attainment/ability;
- the actions of a pupil's parent/carer; or
- failure of a pupil to meet specific conditions before reinstatement.

Permanent exclusion should only be used as a last resort where all alternatives have been considered and all strategies to change behaviour have failed. It must be demonstrated that allowing the pupil to remain in UTC would harm the education or welfare of the pupil or others in the UTC.

Where an excluded pupil has Special Educational Needs (SEN) or is on the SEN register, it must be demonstrated that the UTC has regard for the SEN Code of Practice and has provided extensive means of support to help meet the pupil's needs. Early intervention to address underlying causes of disruptive behaviour should include an assessment of whether appropriate provision is in place to support any SEN or disability that a pupil may have. Any intervention strategies should be discussed with and involve the pupil's parents.

The Principal should ensure that the behaviour policy of the UTC is reviewed on an annual basis and approved by the governing body.

### 5. Duty to Inform Parents

Parents/carers must be informed immediately and in writing of the length and type of exclusion, and of their right to make representations to the governors. Pupils over 18 have to be informed and have the right to appeal on their own behalf. Pursuant to the duty of care placed on UTCs to ensure the welfare of pupils, parents/carers must be advised of an exclusion prior to the pupil being sent off-site.

NE Futures UTC maintains letters for notifying parents of exclusions and an explanatory note to accompany each letter setting forth their rights of representation.

### 6. Review of the Decision to Exclude

In all cases of permanent exclusion and fixed-term exclusions amounting to over 15 days in a term (cumulatively or singly), the decision of the Principal must be reviewed by a panel of governors. The panel may be constituted from members of the Local Governing Body of the UTC.

The panel norm is three governors, with a clerk appointed by NE Futures UTC. One governor on the panel will be designated as the Chair of the meeting and, in the event of a request for external independent review by parents (see section below entitled *Independent Review Panel*), will represent the panel at that independent review meeting. The Principal cannot be a member of the panel.

Subject to the availability of governors, review meetings should be held within a period of 15 working days from the date of the exclusion. The Principal must make arrangements for paperwork to be prepared as soon as possible after the decision to exclude is made.

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- Fixed-term exclusions totalling **five or fewer UTC days** (or 10 or fewer lunchtimes or half days) in any one term must be reported to the governors at each Local Governing Body meeting and recorded on the MIS. The governing body must consider any representations made by parents, but it cannot direct reinstatement and is not required to arrange a meeting with parents.
- If an exclusion means that a pupil will **miss a public exam**, the panel should try to meet before the date of the exam. If this is not practicable, the Chair of Governors may use the emergency powers for Chair's action to review the exclusion alone.
- For fixed-term exclusions of **6 to 15 days**, if the parents make representations, the governing board must consider within 5 days of receiving the notice of exclusion whether the excluded pupil should be reinstated. In the absence of any representations from the parents, the governing board is not required to meet and cannot direct the reinstatement of the pupil.
- For fixed-term exclusions that singly or cumulatively total **more than 15 days** in one term, and for **permanent exclusions**, the panel must hold a formal hearing within 15 working days, whether or not the parent/carers make representations.

The review panel may confirm the exclusion or direct reinstatement of the pupil. There is no legal option to impose a lesser sanction, i.e. to commute a permanent exclusion to a fixed term one.

The review panel may direct reinstatement for any pupils excluded for a fixed-term of more than five days or pupils who would miss a public exam or permanently excluded. If the pupil is to be reinstated, a re-integration programme should be planned with the UTC.

If reinstatement is not practicable – because the pupil is already back in UTC or because the parent does not want it – the review panel must consider the representations made by the UTC and parents/carers, and decide whether or not the exclusion was justified. The decision should then be included in the pupil's record.

After the governor review hearing, the clerk will inform the parties in writing about the result, with reasons for the decision. Decisions are communicated as soon as possible and every attempt is made to do this within 5 working days.

## 7. Principles of Natural Justice

- All factual determinations are based on a balance of probabilities, both by The Principal and at any subsequent review.
- In making their decisions to exclude, The Principal must ensure that their decisions are fair, based on the facts of the incident and do not include any elements of discrimination.
- Members of the panel should be impartial, unprejudiced, have taken no previous part in the specific case, and have no personal or UTC interest in its result.
- Parents/carers should be informed of the case put forward by the UTC and have an opportunity to challenge it.
- Both parties should be allowed to present their case without unreasonable interruption. Aggressive, repetitive or unnecessarily over-long presentations hinder the effectiveness of the review process and the Chair will retain discretion to curtail any such presentation.
- Parents/carers should be able to bring a friend or adviser with them. An effective meeting, however, will not be able to accommodate large groups of people and the Chair retains ultimate discretion as to the attendance of invited parties beyond a reasonable number.

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- All documents to be used in evidence should be distributed to all parties at least five working days before the hearing. If new material is introduced at the hearing, all parties must have time to consider it. Should such material be voluminous, the Chair has the discretion to adjourn the meeting to allow proper review.
- No party to the hearing should be in the presence of the panel unless the other party is also present. Every party should feel that they have had a full opportunity to present their case and have it duly considered.

## 8. Standard of Evidence for Panel Meetings

The standards for high quality of documentary evidence required for panel meetings are based on DfE guidelines. The Principal and staff members delegated with responsibility for investigating breaches of behaviour policies should refer to this guidance. There should be no delays in gathering evidence and witness statements, both for reliability of recall and given the legal obligation to review exclusions within short statutory deadlines.

## 9. Independent Review Panel

If a permanent exclusion is upheld, parents/carers must be told of their right to seek an independent review of the decision reached by governors and the deadline for seeking such a review.

The Independent Review panel will be convened by the Local Governing Body and be independent of the original panel.

They also have the right to request the attendance of a SEN expert at the Independent Review Panel meeting. Decision letters sent by NE Futures UTC to the parents/carers will include these details of the right of independent review. The parents/carers have 15 days (from the date of receipt of the review panel's decision) to seek an independent review.

Within 15 UTC days of such a request, NE Futures UTC will engage the services of an external clerking agency to arrange and clerk the Independent Review Panel.

The independent review is normally attended by the Principal, lead UTC staff member on the case, and Chair of the original review panel. The clerk of the original panel may attend but plays no formal part in proceedings. Where the parents/carers have legal representation or it is considered appropriate on behalf of the UTC, it may be agreed that the UTC should also have legal representation. This will be arranged by NE Futures UTC.

The Independent Review Panel cannot direct a governing body to re-instate a pupil. It may:

- a) uphold the exclusion;
- b) recommend that the original panel reconsider its decision; or
- c) quash the original panel's decision and direct the panel to reconsider its decision.

## 10. Parallel police proceedings

The governing body has no power to delay a hearing beyond the statutory time limit because of police proceedings. If a permanent exclusion is upheld in these circumstances, the parent has 15 days to request independent review in the normal way.

### 11. Other relevant legislation

The principal legislation, guidance and regulations to which this guidance relates is:

- Education Act 2002, as amended by the Education Act 2011;
- School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012;
- Education and Inspections Act 2006;
- Education Act 1996;
- 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;
- SEND code of practice: 0 to 25 years (updated 1 May 2015);
- Special Educational Needs and Disability Regulations 2014 (Part 4); and
- Equality Act (2010).