



# Suspension and Permanent Exclusions Policy

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## Our Vision and Ethos

Nishkam schools are Sikh ethos multi faith schools that take a distinctive approach to many traditional faith schools. The Nishkam School Trust education model is led by virtues such as, compassion, humility, service, contentment, optimism, trust and forgiveness. Virtues are prevalent throughout our teaching and learning model and are modelled by our pupils, staff and teachers. Our pupils explore the divine context of humanity and wonder of all creation and also learn from the wisdom of all religions and in doing so explore the infinite human potential to do good unconditionally. We support all pupils and staff to develop aspects of their own religious, spiritual or human identities. In service of God, we pray for guidance in this endeavour and forgiveness for the errors we may make.

Our schools work continuously to utilise our 'faith inspired, virtues led' approach to education to improve the behaviour of our pupils. We deploy restorative justice where possible to avoid the use of suspensions and permanent exclusions. We also deploy off-site direction and managed moves as further preventative measures to exclusion. When deployed, an off-site direction might have the pupil in Alternative Provision on a part time or full time basis; the pupil will be dual registered and the placement will kept under regular review. Similarly, managed moves will be undertaken in the pupil's best interests, where it is agreed by all parties and forms part of the school's planned intervention. Our schools' work within local collaborative clusters that ensure that information-sharing is carried out between our school, the receiving school and the move is subject to a mid-term review and a final review.

### 1. Aims of the policy

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

Nishkam School Trust aims to ensure that:

- The suspension and permanent exclusion process is applied fairly and consistently
- The suspension and permanent exclusion process is understood by governors, staff, parents and pupils
- Pupils in school are safe and happy
- Pupils do not become NEET (not in education, employment or training)
- Ensure all suspensions and permanent exclusions are carried out lawfully

#### A note on off-rolling

Our school is 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. Legislation and statutory guidance

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](#)

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

## 3. Definitions

**Suspension** – when a pupil is removed from the school for a fixed period. This was previously referred to as a 'fixed-term exclusion'.

**Permanent exclusion** – when a pupil is removed from the school permanently and taken off the school roll. This is sometimes referred to as an 'exclusion'.

**Off-site direction** – when a governing board of a maintained school requires a pupil to attend another education setting temporarily, to improve their behaviour.

**Parent** – any person who has parental responsibility and any person who has care of the child.

**Managed move** – when a pupil is transferred to another school permanently. All parties, including parents and the admission authority for the new school, should consent before a managed move occurs.

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

## 4. Roles and responsibilities

### 4.1 The School Leader

#### Deciding whether to suspend or exclude

Only the School Leader, can suspend or permanently exclude a pupil from school on disciplinary grounds. The decision can be made in respect of behaviour inside or outside of school. The School Leader will only use permanent exclusion will be taken as a last resort.

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

Based on new guidance and amended regulations the School Leader can cancel an exclusion before the governing board has met to consider whether the pupil should be reinstated. This practice is sometimes known as withdrawing or rescinding an exclusion.

Where an exclusion is cancelled:

- The School Leader must notify the parents, the governing board, the LA and the pupil's social worker and VSH as applicable, without delay. The notification must also provide the reason for the cancellation;
- The governing board's duty to consider reinstatement ceases, and there is no requirement to hold a meeting to consider reinstatement;
- Parents (or the excluded pupil if they are 18 years or older) should be offered the opportunity to meet the School Leader to discuss the circumstances that led to the exclusion being cancelled which should be arranged without delay;
- The pupil must be allowed back into the school from which they were excluded without delay.
- Any days spent out of school as a result of any exclusion, prior to the cancellation will count towards the maximum of 45 school days permitted in any school year.

A permanent exclusion cannot be cancelled if the pupil has already been excluded for more than 45 school days in a school year or if they will have been so by the time the cancellation takes effect. A decision to suspend or exclude a pupil will be taken only:

- In response to serious or persistent breaches of the 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 fixed period, the School Leader will:

- Consider all the relevant facts and evidence on the balance of probabilities, including whether the incident(s) leading to the suspension or exclusion were provoked;
- Allow the pupil to give their version of events;
- Consider if the pupil has special educational needs and disabilities (SEND);
- Consider whether the pupil is especially vulnerable (e.g. the pupil has a social worker, or is a looked-after child (LAC))
- Consider whether all alternative solutions have been explored, such as off-site direction or managed moves
- The School Leader will consider the views of the pupil, in light of their age and understanding, before deciding to suspend or exclude, unless it would not be appropriate to do so.
- Pupils who need support to express their views will be allowed to have their views expressed through an advocate, such as a parent or social worker.
- The School Leader will not reach their decision until they have heard from the pupil, and will inform the pupil of how their views were taken into account when making the decision.

### Informing parents

If a pupil is at risk of suspension or exclusion the School Leader 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 School Leader 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, without delay.

- The reason(s) for the suspension or exclusion
- The length of a 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 governing board and how the pupil may be involved in this
- How any representations should be made
- Where there is a legal requirement for the governing board to meet to consider the reinstatement of a pupil, and that parents or a pupil if they are 18 years old have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend

The School Leader 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 the School Leader does not have the 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.

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 pupil 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

The School Leader will, without delay, notify the governing board 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 School Leader will notify the governing board 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.

### Informing the local authority (LA)

The School Leader 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.

### 4.2 The Local Governing Body

Responsibilities regarding suspensions/permanent exclusions is delegated to Disciplinary Committee.

The Disciplinary Committee has a duty to consider the reinstatement of an excluded pupil (see section 6).

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

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

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

### For secondary schools only:

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

### Informing the 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 pupils ability to sit a National Curriculum test or public exam (where relevant)

The social worker / VSH will be invited to any meeting of the governing board 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.

### Providing education during the first 5 days of a suspension or permanent exclusion

During the first 5 days of a suspension, if the pupil is not attending alternative (AP) provision, the School Leader will take steps to ensure that achievable and accessible work is set and marked for the pupil. Online pathways such as Google Classroom, Seneca Learning or Oak Academy may be used for this. If the pupil has a special educational need or disability, the headteacher will make sure that reasonable adjustments are made to the provision where necessary.

If the pupil is looked after or if they have a social worker, the school will work with the LA to arrange AP from the first day following the suspension or permanent exclusion. Where this isn't possible, the school will take reasonable steps to set and mark work for the pupil, including the use of online pathways.

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

The disciplinary committee will consider the reinstatement of an excluded pupil within 15 school days of receiving the notice of the exclusion if:

- The exclusion is permanent;
- It is a fixed-term exclusion which would bring the pupil's total number of school
- It is a fixed-term exclusion which would bring the pupil's total number of school days of exclusion to more than 15 in a term
- It would result in a pupil missing a public examination or national curriculum test

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

The disciplinary meeting and IRPs can now be held via the use of remote access (for example, live video link) for suspension and permanent exclusions if requested by the parents, provided certain criteria are satisfied. Meetings held via the use of remote access should not be a default option and face to face meetings should always be encouraged.

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

The disciplinary committee can either:

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

In reaching a decision, the disciplinary committee will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the School Leader 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 pupil's educational record.

The disciplinary committee will notify, in writing, the School Leader, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the disciplinary committee 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 pupil's SEND are considered to be relevant to the exclusion
- That, regardless of whether the excluded pupil has recognised SEND, parents have a right to require the school to appoint an SEN expert to attend the review
- 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 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 school will arrange for an independent panel to review the decision of the Disciplinary Committee 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 Disciplinary Committee of its decision to not reinstate a pupil.

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 school governors category and 2 members will come from the headteacher category.

- A lay member to chair the panel who has not worked in any school in a paid capacity, disregarding any experience as a school governor or volunteer
- School governors who have served as a governor for at least 12 consecutive months in the last 5 years, provided they have not been teachers or headteachers during this time
- School Leader or individuals who have been a School Leader within the last 5 years

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

- Are a Trustee/ Governor the Trust , or governing board of the excluding school
- Are the School Leader of the excluding school, or have held this position in the last 5 years
- Are employed by the Trust, or the governing board, of the excluding school (unless they are employed as a School Leader at another school)
- Have, or at any time have had, any connection with the Trust, school, governing board, 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 I for what training must cover)

A governance professional will be appointed to the panel.

The independent panel will decide one of the following:

- Uphold the Disciplinary Committee decision
- Recommend that the governing board reconsiders reinstatement
- Quash the Disciplinary Committee 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. School Registers**

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

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

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.

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

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

## **10. Monitoring arrangements**

The School Leader monitors the number of exclusions every term and reports back to the LGB. They also liaise with the local authority to ensure suitable full-time education for excluded pupils.

This policy will be reviewed by the School Leader every two years. At every review, the policy will be approved by the Trust Board and adopted with the governing board.

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

- Behaviour policy
- SEND policy and Information Report

## Appendix I: Independent Review Panel Training

The 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 headteachers, 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