

## Exclusions Policy SO-0232

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| Date of issue                      | February 2022                  |
| Date reviewed                      | -                              |
| Date of next review                | February 2023                  |
| Amendments                         | 31 May 2023                    |
| Version number                     | 1.1                            |
| Policy lead                        | Education Directorate          |
| Distribution                       | NAS Independent Schools        |
| Date quality assured by Stone King | February 2022                  |
| Date ratified by board             | 21 <sup>st</sup> February 2022 |

**This policy has been separated out and replaces NAS Admissions, remissions and exclusions as advised by Stone King January 2022.**

### 1. Purpose of this document

To outline the NAS Education Directorate's policy for NAS schools' approach to Exclusions.

We understand that good behaviour and discipline is essential for promoting a high-quality education and recognise that exclusion of pupils may be necessary in some circumstances. In all cases, excluding pupils should only be used as a last resort.

This policy has been created to clearly define the legal responsibilities when responding to pupil exclusions, to ensure that they are dealt with both fairly and lawfully, and in line with DfE statutory guidance.

This policy also aims to secure a pupil's right to an education despite having been excluded, by ensuring that appropriate arrangements are in place. Furthermore, it aims to support staff in their work with pupils to ensure that teaching and learning can continue unhindered.

### 2. Scope

Applies to all NAS independent schools.

### 3. Objectives

Our schools seek to ensure that:

- The exclusions process is applied fairly and consistently
- The exclusions 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)

#### 4. Operational delivery

It is to be expected that NAS schools will be best able to manage pupils who present with challenging behaviour as a consequence of their autism or related condition. Exclusion from a NAS school is very rare and only happens in exceptional circumstances and as a disciplinary measure, not a substitute for another process. In line with the government's statutory guidance for maintained schools and the SEND Code of Practice 2015, every effort is made to avoid excluding a pupil who has an EHCP (which covers every pupil in an NAS School).

Challenging behaviour can be an indication of unmet needs and this is particularly true for the pupils in our schools. Where a school has concerns about a pupil's behaviour, it should try to identify whether there are any causal factors and intervene early with all possible stakeholders in order to reduce the need for a subsequent exclusion. In this situation schools should consider a multi-agency assessment that goes beyond the pupil's educational needs.

Where a NAS school has concerns about the behaviour, or risk of exclusion, it should, in partnership with others (including the local authority as necessary), consider what additional support or alternative placement may be required. This should involve assessing the suitability of provision for a pupil's needs. The school will consider requesting an early annual review or interim/emergency review.

The school will liaise with parents and the LA to review the EHCP following incidents where a pupil's behaviour is severe enough that the school is considering exclusion. Exclusion will only then be considered as a last resort if alternatives should prove unsuccessful.

A pupil may **only** be excluded by the Principal. The safety, education and welfare of all pupils and staff is of paramount importance and therefore exclusion may be appropriate.

Pupils attending NAS schools are particularly vulnerable to the impacts of exclusion. Accordingly, fixed term exclusion should only be used where it is deemed to be a highly effective sanction and other options have been explored. Permanent exclusion should only be used as a very last resort, in response to a serious breach, or persistent serious 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 in the school.

Exclusions from NAS schools will reflect the principles contained within the Department for Education's statutory guidance on Exclusions for maintained schools and academies (<https://www.gov.uk/government/publications/school-exclusion>) and the most recent Scottish Government guidance

(<https://www.gov.scot/publications/included-engaged-involved-part-2-positive-approach-preventing-managing-school/pages/2/>), as applicable to each territory.

### **Exclusion - Procedure**

1. A decision to exclude a pupil will only be taken in response to serious breaches of the school's behaviour policy or if allowing the pupil to remain in light of their behaviour in school would harm the education or welfare of the pupil or others in the school.
2. A decision to exclude must be carefully considered based on the information available and by adopting the civil standard or proof i.e. on the balance of probabilities.
3. Exclusion will not be appropriate for minor incidents such as failure to complete homework, poor academic achievement, lateness or truancy, pregnancy, breaching uniform or jewellery policy or punishing parent(s) for the behaviour of pupils.
4. Exclusions will not be appropriate where the pupils' behaviour, which calls into question the need for exclusion, is evidently a consequence of the child's autism, as described in school and other documentation e.g. risk assessment, annual review, internal behaviour information.
5. Before deciding the type of exclusion (fixed term/period or permanent), a full investigation will take place to enable the Principal to consider all facts available at the time. This will take into account the NAS policy on Equal Opportunities (SO-0240), checking whether the incident appears to be provoked by discriminatory practice and, if necessary, consultation with others but not involving anyone who may later take part in the review of the decision. The pupil should be enabled to participate to give their version of events where possible.
6. Before taking the decision to exclude the Exclusion Decision Making Record must be completed by the Principal. (Appendix 1)
7. Permanent exclusion is an extreme measure made if the pupil's behaviour meets the following twin test:
  - 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 in the school.
8. A fixed period exclusion shall not exceed a total of 45 school days in any academic year. A fixed term exclusion may last for part, a whole or multiple days. If the fixed term exclusion is determined to last for more than 5 days then the local authority will be notified. Fixed term exclusions will not last for more than 10 consecutive working days.
  - The pupil shall be returned to the care of the parent or placing Authority as appropriate

- The school will provide work for the pupil to undertake and/or guidance with regard to activities and occupation of time during the period of exclusion up to the end of the fifth consecutive day;
  - A meeting will be convened at the earliest opportunity with the LA. The outcome of this meeting will be a strategy plan to be adopted for the pupils return
  - In the case of a pupil who is looked after by the Local Authority the Principal will convene an urgent review meeting to agree the next steps.
9. If a pupil is to be temporarily excluded for more than 15 school days in one term, the Principal must plan how to enable the pupil to continue their education; how to use the time to address the pupil's problems, and in conjunction with the LA, what arrangements will best help the pupil to re-integrate into the school at the end of the exclusion.
10. A meeting will be held following any fixed term exclusion to outline the conditions for return, emphasising the need for appropriate behaviour, taking into account the degree of control the pupil has to modify their behaviour, and their understanding of why they were excluded (dependent on the pupil's level of understanding).
11. Fixed term exclusions cannot be extended or 'converted' into permanent exclusions. In exceptional cases, usually where further evidence has become known, a further fixed-period exclusion 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 fixed period.
12. The Principal will inform the LA immediately of all permanent exclusions, and all exclusions that result separately or in total of the pupil missing more than 15 schools days in any one term, or which deny the pupil chance to take an examination. Short fixed period exclusions of one to five school days should be reported each term unless the LA requests more frequent reports.
13. The Principal who excludes must notify the parent(s)/carer immediately themselves by telephone as soon as possible, followed by a letter within one school day.
14. The letter should explain:
- why the decision was taken
  - steps to enable the pupil to continue their education
  - the parent/carers' right and method of appeal
  - the right to see their pupil's school record
  - if the exclusion is permanent, the date the exclusion takes place and details of any relevant previous warnings, exclusions or measure before

- the present incident and how this incident meets the twin test outlined above
- if the exclusion is fixed term, the date and time of return and reintegration meeting
  - the name and telephone number of the LA Officer for parent(s)/carer(s) to contact
  - correspondence should be in a format that the parent(s)/carer(s) can understand.
15. The decision to fixed term exclude is not subject to review panel appeal. However, should parents or carers have serious concerns about the decision to fixed term exclude then they should discuss this with the Principal within the first day of the exclusion.
16. When a pupil is excluded they should be referred to the appropriate sources of help and support. Effort will be made to welcome the pupil and strategies will be put in place to assist the pupil in returning to school. Advice and information are usually available to a parent(s) through the funding LA's SEN partnership scheme.
17. If a parent/carers sends a pupil to school or refuses to collect him or her during an exclusion period, the school should have due regard for the pupil's safety and contact the LA/Education Welfare Office for advice.

### **Exclusion Panel Review Meeting**

1. In line with the statutory guidance for maintained schools (Exclusions Statutory Guidance, 2017, Part 6), the (Executive) Principal's decision to permanently exclude will be checked, challenged and if suitable ratified by the School Governance Group (SGG).
2. The Principal should prepare a pack of information detailing information that provides a rationale for the decision to permanently exclude.
3. Parents/carers have the right to make representations for the panel to consider. The commissioning local authority may be invited to attend. The Principal must attend.
4. The panel must consist of no fewer than 2 governors plus another person not directly involved in the decision to permanently exclude.
5. The panel review meeting must occur within 15 school days of the Principal's decision to permanently exclude.
6. Where an exclusion would result in a pupil missing a public examination or national curriculum test, there is a further requirement for a governing board. It must, so far as is reasonably practicable, consider the exclusion before the date of the examination or test.
7. The governing board must make reasonable endeavours to arrange the meeting for a date and time that is convenient to all parties, but in compliance with the relevant time limits set out above. However, its decision will not be invalid simply on the grounds that it was not made within these time limits.
8. Governors should refer to Part 6 of the statutory guidance referred to above to support their preparation for the panel.

9. The Director of NAS Education and Children's Services will not be involved in the exclusion process unless and until receipt of a notification from purchasing authority and/or parent(s) wishing to make representation about or appeal through the panel meeting against a decision made by a (Executive) Principal to exclude.
10. If, after a permanent exclusion, the pupil returns to school prior to the review panel meeting, the Panel will consider whether or not the exclusion was objectively fair and appropriate and what (if any) note should be made to the pupil's record with respect to the exclusion.
11. Everything possible will be done to establish an environment in which all parties can present their cases effectively and at their own pace.
12. Decisions will be based on all relevant facts including whether or not the exclusion process was in accordance with policy and procedure and fairly implemented.
13. The needs and interests of all other pupils and staff in the school will be taken into account, as well as those of the excluded pupil.
14. The panel hearing will consider whether or not there was consistency in terms both of other exclusions (if any) on similar grounds in similar situations and its terms of sanctions imposed on other pupils involved in that case (if relevant).
15. The Chair will welcome and introduce all parties, explain in which order the parties will be heard, and explain that there will be an opportunity for questions to be raised after each party has spoken.
16. The conduct of the proceedings is based on fairness and ensuring that the correct decision is made.
17. The meetings will not be audio or video recorded. Notes of the meeting will be taken.
18. The Chair of School Governance Group (SGG) or the governor chairing the review panel (if different) will notify the Principal, purchasing authority and parent(s) of the Exclusion Review Panel's decision, with reasons, within 5 days of the meeting. If it is not possible to give a final decision (for example if further investigation is necessary), an interim response will be given within 5 days giving an explanation of the delay and timeframe for a final decision.
19. A record of the Review Panels decision will be kept on the pupil's file together with a copy of the Principal's exclusion letter.
20. The panel's decision is final as an independent school.

## 5. Evaluation of policy

This policy will be reviewed on an annual basis for its effectiveness and to ensure it takes account of current legislation.

## 6. Impact assessment

In considering the revisions to this policy, close attention has been paid to enabling access to it and the associated procedures, reflecting the requirements of the Equality Act 2010.

## 7. References

Exclusions Statutory Guidance, 2017

<https://www.gov.uk/government/publications/school-exclusion>

Included, engaged and involved, Part 2: preventing and managing exclusions in schools (Scottish Government, 19 June 2017) <https://www.gov.scot/publications/included-engaged-involved-part-2-positive-approach-preventing-managing-school/pages/2/>

SEND Code of Practice 0-25 <https://www.gov.uk/government/publications/send-code-of-practice-0-to-25>

## Appendix 1 Exclusion decision making record

This record outlines the decision making and influencing factors leading to a pupil receiving a sanction that falls into NAS Exclusions Policy. This document must be signed off by the Principal with input from appropriate members of their team and in consultation with NAS Directorate members. All of our pupils have SEND and an EHCP. All decisions to exclude (or not) will be taken with pupils' SEND needs, known behaviours and social care needs in mind.

| <b>Pupil Name:</b>   | <b>Pupil URN:</b>  | <b>How does this information affect your decision making?</b> |
|--|--|---|
| <b>Date:</b>   | <b>CPOMs reference:</b>  |   |
| <b>Step 1: The incident / series of incidents</b>  | Describe:  |   |
| <b>Step 2: Investigation</b><br>(must include a detailed chronology of events before the incident) | Conducted by:<br>Checked by:<br>Outcome:   |   |
| <b>Step 3: Consultation</b>  | Who has been consulted in this process and what did they say?  |   |
| <b>Step 4: Reasonable adjustments (EA 2010)</b>  | Describe and explain impact of reasonable adjustments to date:   |   |
| <b>Other contextual information</b>  |  |   |
| <b>Step 5: Deciding whether to exclude</b>   | <p>Based on the detail in the grey boxes above, do the facts of the matter support a decision to exclude the pupil?</p> <ul style="list-style-type: none"> <li>- Are there underlying factors that led to the incident/series of incidents?</li> <li>- Is this incident one in a series of similar incidents? What makes this situation different?</li> <li>- Does the incident threaten other school members' safety and/or ability to work and learn in school?</li> <li>- Is there an alternative to exclusion that has not already been attempted in support of the pupils' needs?</li> <li>- Does the issue meet the following definition: "'on the balance of probabilities' it is more likely than not that the student in question carried out a serious breach or persistent breaches of the School's Behaviour Policy"?</li> </ul> |   |
| <b>Step 6: Exclusion type</b><br>(only complete if decision is to implement any type of exclusion) | <p><i>The decision to exclude a student permanently should only be taken:</i></p> <ul style="list-style-type: none"> <li>• <i>in response to a serious breach, or persistent breaches, of the school's behaviour policy; and</i></li> <li>• <i>where allowing the student to remain in school would seriously harm the education or welfare of the student or others in the school.</i></li> </ul> <p>Based on the information in steps 1-4, does this incident meet the criteria in italics above? Yes/No<br/>If Yes, a panel must be formed.</p> <p>Reasoning:</p>   |   |
| <b>Step 7: Outcome</b>   | If the decision is not to exclude, follow steps to successfully reintegrate the pupil into their structure and routine. Adjustments must be made to the pupils' provision (including PBS plan, provision assessment etc). The pupil and their family/carers must be consulted beforehand.  |   |



If the decision is to exclude, then the Principal must follow the steps described in the Exclusion Policy and refer to the Government's guidance if in doubt. The Principal or their delegate must liaise with the local authority when excluding from school for any duration to ensure that the pupils' wider needs are accommodated. In all cases, the pupil's next steps (reintegration, transition) must be fully supported by the school team and in collaboration with suitable stakeholders.

Decision: Not to exclude / internal / fixed term / permanent

Signed (Principal):

Signed (SGG Chair):