



Student may be **temporarily** excluded for:

A breach of the dress code, serious disruption, smoking or vaping, carrying offensive items, being under the influence of alcohol or illegal drugs, minor theft and vandalism, physical aggression and bullying, including physical, mental, digital, verbal, racist, sexist, homophobic and other gender based bullying. This includes offensive behaviour, language or actions, or verbal abuse to a member of staff or student. It also includes deliberately being rude to a teacher or ignoring the instructions of a teacher, member of staff or prefect. Any behaviour which calls into question the good name of the school, or other serious incidents/behaviour which, in the opinion of the Headmaster, requires an exclusion.

Temporary exclusions are normally regarded as 'spent' after 12 months on file, but this is at the discretion of the Headmaster.

A student may be **permanently** excluded for:

Bringing illegal drugs into school under any circumstances, any form of persistent bullying as outlined above, persistent threatening or aggressive behaviour. Persistent disruption, where other sanctions have failed to effect a change in behaviour. Major theft or any attempted or actual physical assault on a member of staff or, in the opinion of the Headmaster, a serious assault on a pupil. Bringing any weapon into school.

A student may also be excluded for other serious incidents which, in the opinion of the Headmaster, warrant a permanent exclusion.

Students who are externally excluded on a temporary basis on three occasions (and normally taking into account spent exclusions) will be required to attend (with their parents) a meeting of the school's Discipline Committee, made up of 3 Foundation Governors, Headmaster in attendance. At this meeting, a final warning will be issued and any further exclusion will be on a permanent basis. However, it should be clearly noted that the Headmaster has the power to permanently exclude any student at any time, should the circumstances warrant such action.

(An extract from the Behaviour Policy)

Richard Challoner School follows current statutory guidance ([Exclusion from maintained schools, Academies and pupil referral units in England: A guide for those with legal responsibilities in relation to exclusion. DfE 2017](#)) for exclusion.

Richard Challoner School belongs to the Local Authority Fair Access Panel which will look to place students who are in danger of permanent exclusion, or who have been permanently excluded, in alternative provision.

The Principles of our Exclusion Policy

Only the Headteacher or acting Headteacher may exclude a student and this will only ever be on disciplinary grounds. This power has not been delegated to anyone else.

The Headteacher may withdraw an exclusion that has not been reviewed by the Discipline Committee.

The Governing Body has delegated members of the Discipline Committee to be of category Foundation Governor.

In line with the principles of administrative law, (including the European Convention on Human Rights) any decision the Headteacher makes to exclude a student must be:

- a. Lawful
- b. Rational
- c. Reasonable
- d. Fair
- e. Proportionate

When establishing the facts in relation to a possible exclusion, the Headteacher will always apply the civil standard of proof i.e. on the balance of probabilities.

The School will take care to ensure that a decision to exclude does not involve any kind of discrimination as defined by the Equality Act 2010.

The School will always have due regard to its public sector equality duty.

The School will not exclude any student for non-disciplinary reasons.

Exclusion will never be used informally or unofficially. This is against the law.

The Headteacher does, however, have the right to direct a student for education off-site to improve behaviour, or to arrange a 'managed move' for the same reason, but this will only be considered when there has been full consultation and agreement with parents/carers and

the receiving institution. The threat of exclusion will never be used to influence parents/carers to remove their child from the school.

Where practical, the Headteacher will give the student an opportunity to present their case before taking the decision to exclude.

When considering exclusion, the Headteacher will take into account:

- a. Possible short term mitigating circumstances such as bereavement, mental health issues etc.
- b. Where it comes to light that the student has been subject to bullying
- c. Whether the student comes into a category that is known to be a particularly vulnerable group (e.g. students with SEND, pupil premium students, Children Looked After, certain ethnic groups, traveller children, LGBT) and whether all preventative strategies have been fully utilised.
- d. Whether the reason a student is being considered for exclusion is linked to one of the protected characteristics as defined by the Equality Act 2010.
- e. Whether a student has already had a number of fixed term exclusions which appear to be ineffective.

Duration of Exclusions

The Headteacher may exclude a student for one or more fixed periods not exceeding a total of 45 days in any one school year or permanently.

The Headteacher may exclude a student permanently if he /she judge the circumstances warrant it.

In exceptional cases, usually where further evidence has come to light, 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.

Action Following Any Exclusion

Following any exclusion of whatever type or duration, the Headteacher will:

- a. Inform the parents/carers of the period and nature of the exclusion
- b. Give the reasons for the exclusion
- c. Advise the parents/carers about rights of representation about the exclusion to the Governing Board and how these representations may be made
- d. Take account of his/her legal duty of care when sending a student home following an exclusion. 'Holding' arrangements until the student can be collected may be necessary.
- e. Make arrangements to provide suitable full time education from the sixth day onwards for students who have been given a fixed period exclusion lasting longer than five days. Once alternative provision has been arranged from the sixth day of

the exclusion, the Headteacher must by law inform the parents/carers without delay of the start date, times and venue of the provision. This must be done no later than 48 hours before the alternative provision is to start. It is then the responsibility of the parents/carers to make sure the student attends the alternative provision.

- f. If the excluded student is in Year 11 or 13 and has completed all public examinations, no alternative educational provision after six days is necessary.
- g. This information will be put in writing and will be sent by e-mail, or to home address. Consideration will be given to translating the letter if the parents'/carers' first language is not English.
- h. Where the excluded student is of compulsory school age, the school will also notify parents/carers without delay that for the first five days of an exclusion they are legally required to ensure that their child is not in a public place during school hours without reasonable justification and that they may be given a fixed penalty notice if they fail to do so.
- i. Parents/carers must be informed where either a further fixed term exclusion has been issued or a permanent exclusion is issued to begin immediately after the end of a fixed term exclusion. In such cases, the Headteacher must write again to the parents/carers explaining the reasons for the change and providing any additional information required.

Informing Other Bodies

For any exclusion of more than five days, be it in a single block of days, an accumulation of short exclusions of more than five days in any one term, or a permanent exclusion, the Headteacher will also:

- notify the Local Authority (LA) giving the details of the exclusion and reasons for it
- notify the Governing Board giving the same details
- For a permanent exclusion, if the student lives outside the local authority in which the school is located, the Headteacher must also inform the 'home authority' of the exclusion without delay.
- If any exclusion of even one day would cause a student to miss a public examination, the Headteacher will inform the LA and the Governing Board.

The Clerk to Governors will make a termly report to the Governing Board on all exclusions, covering:

- the number and type of exclusions
- the reasons, year group, ethnicity and gender identity (if known), of students
- repeated exclusions and the school's response to them
- links with parents/carers
- follow-up action, including what has subsequently happened to permanently excluded students

In addition, within 14 days of a request, the school will report information about any exclusions within the last 12 months to the Secretary of State and Local Authority (LA).

The Powers of the Governing Board

The Governing Board has a duty to consider parents/carers' representations about an exclusion. The requirements on a Governing Board to consider an exclusion depend upon a number of factors.

The Governing Board must consider the reinstatement of an excluded student within 15 school days of receiving notice of the exclusion if:

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

The Governing Board may review all the various categories of exclusions and will consider any representations made by the parents/carers of the excluded student. If the student is aged 18 or over, they may represent themselves provided there is parental agreement.

The Governing Board has no power to increase the severity of an exclusion. It can, however, uphold an exclusion or direct the student's reinstatement, either immediately or by a particular date.

However, in the case of fixed term exclusion that does not bring the student's total number of days of exclusion to more than five days in a term the Governing Board cannot direct reinstatement and is not required to arrange a meeting with parents/carers.

Discipline Committee

The Governing Board has established a Discipline committee to which it delegates its functions in respect of exclusions. (Hereafter referred to as 'the committee')

The committee consists of at least three Foundation governors

A Clerk to Governors is appointed as Clerk to the discipline committee.

The committee can hear more than one appeal at a single sitting, so long as it complies with the statutory time limits related to each one.

If one of the committee has knowledge of the student(s) involved in the exclusion, or of the incident that led to that exclusion that could affect his/her impartiality, he/she should step down.

The chair has a casting vote in all cases where an even number of governors are considering the case.

If the exclusion could result in a student missing a public examination, the committee will make every effort to meet before the date of the examination. Should this not be possible, then the Chair of Governors will consider the exclusion and decide whether to re-instate the student (these are the only circumstances in which the Chair alone will review an exclusion). When this occurs, the parents/carers also have the right to make oral representations. If possible, the Chair of Governors will have the advice of the Clerk or an LA officer. The committee or Chair of Governors may agree to allow the student back on to the school premises for the sole purpose of sitting an examination, or make arrangements for the examination to be taken and invigilated off the school site, but they are not obliged to do so.

Convening an Appeal Meeting

Fixed Term Exclusions of 5-15 Days - if the parents/carers of an excluded student makes written representations:

- The committee will consider them
- No statutory time limits apply to the consideration of such exclusions
- The committee has the discretion to agree to a meeting to discuss the exclusion, if this is requested by the parents/carers
- In the case of a fixed term exclusion of more than 5 but not more than 15 school days, the committee, once having agreed to hold a meeting will hold that meeting between the 6th and the 50th school day after receiving notice of the exclusion from Headteacher

Longer Fixed Term Exclusions and Permanent Exclusions:

- Should the exclusion be for more than 15 days, or the total of fixed term exclusions be more than 15 days that term, or if the exclusion is a permanent one, the committee has a duty to convene a meeting to be held between the 5th and the 16th school day after the date of receipt of a notice to consider the exclusion. The Governing Board need not postpone a meeting if a police investigation of a potential crime associated with the reason for the exclusion is underway.
- The parents/carers, the Headteacher (and an LA officer if the school chooses) will be invited to the meeting at a time and a place convenient to all the participants within the statutory time limit. The parent and the school may each be accompanied by a friend/advisor.

The committee will ask for any written statements including witness statements in advance of the meeting

- The Clerk will circulate in advance of the meeting any written statements and a list of those who will be present at the meeting to all parties including the student if it is known that he/she will be present.

Prior to the Meeting

The committee should:

- Not discuss the exclusion with any party outside the meeting.
- Identify the steps they will take to enable and encourage the excluded student to attend the meeting and speak on their own behalf.

Conduct of the Meeting

The meeting will be conducted as follows:

- a. No party to the review will be alone with the committee before, during or after the meeting
- b. The clerk/chair makes all introductions and explains the reason for the meeting and the powers held by the committee either to uphold an exclusion or re-instate the student
- c. The school representative, usually the Headteacher, will present the school's case.
- d. He/she can be questioned by all the other parties
- e. The parents/carers will be asked to give their reasons for appealing.
- f. Very often it is the friend/advisor (who may well be a lawyer) who presents the parents/carers' case.
- g. The parents/carers and the student, if present, will still be asked if they have anything to add
- h. The other parties may question the parent and /or comment on what the family has said.
- i. If present, the LA representative will provide information on support for students in the LA and how similar incidents have been dealt with by other schools, and can be questioned on these, but may not comment on the specific case being discussed.
- j. The school sums up its case
- k. The parents/carers or their representative sum up their case
- l. All the parties except the committee and the clerk leave

The committee will apply the 'balance of probabilities' standard of proof to the allegation of misconduct by the student. The more serious the allegation, of course the more convincing the substantiating evidence needs to be. This is not the same as requiring the criminal standard of 'beyond all reasonable doubt' to be applied.

The Decision - Fixed Term Exclusion

The clerk may help the committee in making its decision by reference to notes taken, by reminding them of statutory procedures where relevant and by wording the decision letters afterwards.

In reaching a decision, the following applies:

- The committee is legally required to consider the interests and circumstances of the excluded student, including the circumstances in which the student was excluded, and have regard to the interests of other students and people working at the school.

The committee should consider whether the decision to exclude the student was lawful, reasonable and procedurally fair, taking account of the Headteacher's legal duties and any evidence that was presented to the committee in relation to the decision to exclude

- The committee should be mindful that the government does not allow that exclusion is justified for:
 - A breach of uniform or appearance, except for persistent defiance
 - Minor incidents such as failure to complete homework or to bring in money owed
 - Poor academic work
 - Lateness or truancy
 - Pregnancy
 - Misdeeds by a child who has special educational needs, except for very serious offences

In the case of fixed term exclusion, it is possible that the exclusion may already have expired and the student is back in school. In that case:

- The committee will decide whether the Headteacher's decision to exclude the student was justified, based on it being lawful, rational, reasonable, fair and proportionate. The outcome should be added to the student's record for future reference

In rare cases, the parents/carers may have already decided that they do not want their child reinstated whatever the committee's decision. Under those circumstances, the committee should simply record whether or not they believed that the Headteacher's decision was justified. This view should be recorded and sent to the parents/carers.

If the fixed term exclusion is still operative:

- The committee will decide whether or not the Headteacher's decision to exclude was justified.
- They can either uphold the exclusion, which will have to run its course, or
- Direct the student's reinstatement either immediately or on a named date

The committee through the clerk must inform the parents/carers and the Headteacher of their decision in writing within two school day of the hearing, giving the reasons. They may not attach any conditions to any direction they have given the Headteacher to reinstate the student.

The school has in place established procedures both for the return to school of a student whose fixed term exclusion has been upheld, and for the reinstatement of a student whose exclusion has been overturned. On their return, a student first has a meeting with the Headteacher or another member of the Senior Leadership Team, responsible for the student's welfare, along with his/her parents/carers.

The Decision - Permanent Exclusion

The School follows government guidance which sets out reasons why it would normally be inappropriate to reinstate a student. These are:

- Serious actual or threatened violence against another student or a member of staff
- Sexual abuse or assault
- Supplying illegal drugs
- Persistent and malicious disruptive behaviour, including open defiance or refusal to conform to school rules

When the committee decides to uphold a permanent exclusion, a letter to the parents/carers (or to the student if aged 18 or over) will state:

Their reason for the decision

The right of the family to appeal to an Independent Review Panel, together with the name and address of the person to whom any request for a review should be sent

- The date by which any request for a review should be lodged
- That any request for a review must set out the grounds on which the request is made
- That any claims on grounds of disability discrimination can also be set out. If a case for discrimination is made, this will be referred to a First Tier Tribunal or a County Court.

If the committee decides to overturn the exclusion, again as with fixed term exclusions, the decision as to whether there is to be an immediate reinstatement or a later date for this to occur will be conveyed to all parties. A note of the Governing Board's views on the exclusion will be placed on the student's school record with copies of relevant papers.

Independent Review Panels

We advise parents/carers that they have the right to request a review of the decision by the governor's committee to uphold a permanent exclusion. The School is responsible for managing and training independent panels concerning cases of permanent exclusion. An independent panel can do the following:

- uphold an exclusion but cannot overturn the decision of a governors' committee
- recommend that the Governing Board reconsiders its decision, taking account of the findings of the panel
- If the panel has grounds for believing that the governors' decision was flawed, they can quash the decision and direct the Governing Board to reconsider reinstatement

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

- Illegality – did the Governing Board act outside the scope of its legal powers in deciding that the student should not be reinstated?
- Irrationality – did the Governing Board rely on irrelevant points, fail to take account of all relevant points, or make a decision so unreasonable that no Governing Board acting reasonably in such circumstances could have made it?

- Procedural impropriety – was the Governing Board’s consideration so procedurally unfair or flawed that justice was clearly not done?

The School may appoint a Clerk to provide advice to the panel and parties to the review on procedure, legislation and statutory guidance on exclusions.

The School must ensure that all panel members and clerks have received current training.

If requested by parents/carers, the School must appoint a SEND expert to attend the panel and will cover the associated costs of the appointment (regardless of whether the school recognises that a student has SEND).

Follow Up

Where an application for an independent review has been made within 15 school days the student will remain on the school roll until the review has been held and its outcome known.

The Headteacher will, however, remove the name of a permanently excluded student from the school admissions register if:

- ☐ 15 school days have passed since the parents/carers were notified of the Governing Board’s decision to uphold the permanent exclusion.
The parents/carers have stated in writing that they will not be applying for an independent review.

If the parents/carers go on to make a discrimination claim which is upheld by either a First Tier Tribunal or the County Court, the student must be re-instated.

Should the LA place an excluded student with us, the School will not refuse to take such a student unless we are full. However, if the student has already been excluded from two or more schools, then our Governing Board may refuse to take the student.

Parenting Orders

Under the anti-social Behaviour Act 2003, LAs have powers to apply for a parenting order to help address children’s behaviour in school. If necessary, the School will request the LA to make an application for a parenting order if we feel it necessary to help us address a child’s behaviour in school. A parenting order is a court order which compels parents/carers to attend parenting classes and to fulfil other requirements as determined necessary by the court for improving their child’s behaviour.

Parenting orders will only be considered following a permanent exclusion or a second fixed term exclusion within 12 months, particularly if parents/carers have not responded to the opportunity to meet with us or the governor’s committee.

Financial Implications of Exclusion

Should a student be permanently excluded, the appropriate sum allotted for that child's education will be deducted immediately from the school budget. The money will remain in the school budget for a little longer if the parent chooses to appeal to a governors' committee and then an independent review panel.

If an independent review panel directs the Governing Board to reconsider a permanent exclusion but the Governing Board upholds that exclusion, the school will be required to make a payment of £4,000 to the LA in which the school is sited.

This is to ensure that the money follows the child to whatever form of education he/she receives after the exclusion. Special arrangements can be made if the child moves to another authority or would be about to move anyway from one phase of education to another e.g. at age 11.

Review Date: June, 2022

Review Cycle: Annual