



# Policy Exclusion

This policy has been written with regard to the guidance 'Working together to safeguard children', 'Keeping children safe in education' and the 'Special Education Needs Code of Practice', which places Special Education Needs and Disabilities together and abbreviated to SEND. A copy can be seen in the Headteacher's Office.

The overall objective of the school's Equality Policy, in line with the Equality Act 2010, is to provide a framework for the school to pursue its equality duties to eliminate unlawful discrimination and harassment, promote equality of opportunity, and promote good relations and positive attitudes between people of diverse backgrounds in all its activities.

<b>Title</b>	Exclusion
<b>Date of Issue</b>	September 2020
<b>Review Date</b>	September 2021
<b>Prepared by</b>	Headteacher
<b>To be reviewed by</b>	Headteacher and Governors
<b>Appendices</b>	Appendix 1: A summary of the Governing Body's Duties to Review the Headteacher's Exclusion Decision
<b>Supply / distribution</b>	Available as a hardcopy in the school office.
<b>Other relevant approved documents</b>	Behaviour Policy SEND Policy SEND information report Statutory guidance from the Department for Education: Exclusion from maintained schools, academies and pupil referral units in England (2017)
<b>Authorised by</b>	Headteacher and Governors

## Contents

1. Aims.....	3
2. Legislation and statutory guidance .....	3
3. The decision to exclude .....	3
4. Roles and responsibilities .....	3
5. Considering the reinstatement of a pupil.....	4
6. An independent review .....	6
7. Returning from a fixed-term exclusion.....	6
8. Links with other policies .....	7
9. Monitoring arrangements .....	7
Appendix 1:	
A summary of the Governing Body's Duties to Review the Headteacher's Exclusion Decision .....	8

## **1. Aims**

Our school aims 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).

## **2. Legislation and statutory guidance**

This policy is based on statutory guidance from the Department for Education: Exclusion from maintained schools, academies and pupil referral units in England (2017). This statutory guidance will be followed at all stages of the exclusion process and will be referred to as the statutory guidance in this policy.

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

- The Education Act 2002, as amended by the Education Act 2011;
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012;
- The Education and Inspections Act 2006;
- The Education Act 1996; and
- 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.

## **3. The decision to exclude**

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

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

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 fixed period, the Headteacher will follow the statutory guidance and 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 or disability (SEND).

## **4. Roles and responsibilities**

### **4.1 The Headteacher**

#### **Informing parents**

Whenever a Headteacher excludes a pupil they must, without delay, notify parents of the period of the exclusion and the reason(s) for it.

They must also, without delay, provide parents with the following information in writing:

- the reason(s) for the exclusion;
- the period of a fixed-period exclusion or, for a permanent exclusion, the fact that it is permanent;
- parents' right to make representations about the exclusion to the 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 Governing Body to consider the exclusion, that parents have a right to attend a meeting, to be represented at that meeting (at their own expense) and to bring a friend;
- where an excluded pupil is of compulsory school age the Headteacher must also notify the pupil's parents of the days on which they must ensure that the pupil is not present in a public place at any time during school hours.

### **Informing the Governing Body and Local Authority (LA)**

The Headteacher will immediately notify the Governing Body and the Local Authority (LA) of:

- a permanent exclusion, including when a fixed-period exclusion is made permanent;
- exclusions which would result in the pupil being excluded for more than 5 school days (or more than 10 lunchtimes) in a term;
- exclusions which would result in the pupil missing a public examination/national curriculum test.

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

For all other exclusions, the Headteacher will notify the Governing Body and LA once a term.

## **4.2 The Governing Body**

Responsibilities regarding exclusions is delegated to a Governing Body Sub-Committee consisting of at least 3 Governors.

The Governing Body Sub-Committee has a duty to consider the reinstatement of an excluded pupil (see section 5).

The full responsibilities of the Governing Body are detailed in the statutory guidance.

## **4.3 The Local Authority**

For permanent exclusions, the LA is responsible for arranging suitable full-time education to begin no later than the sixth day of the exclusion.

The full responsibilities of the Governing Body are detailed in the statutory guidance.

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

The Governing Body Sub-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 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, the Governing Body Sub-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. In the absence of any representations from the parents, the Governing Body is not required to meet and cannot direct the reinstatement of the pupil.

Where an exclusion would result in a pupil missing a public examination or national curriculum test, there is a further requirement for a Governing Body. It must, so far as is reasonably practicable, consider the exclusion before the date of the examination or test. If it is not practicable for a sufficient number of Governors to consider the request, the Chair of Governors may consider the exclusion alone and decide whether or not to reinstate the pupil.

The Governing Body Sub-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 Governing Body Sub-Committee will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the Headteacher 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 Governing Body Sub-Committee will notify, in writing, the Headteacher, parents and the LA of its decision, along with reasons for its decision, without delay.

In the case of a permanent exclusion where the Governing Body decides not to reinstate the pupil, the Governing Body's notification must also include the information below.

- 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 following information:
  - a) the date by which an application for a review must be made (i.e. 15 school days from the date on which notice in writing of the Governing Body's decision is given to parents);
  - b) where and to whom an application for a review (and any written evidence) should be submitted;
  - c) that any application should set out the grounds on which it is being made and that, where appropriate, this should include a reference to how the pupil's SEND are considered to be relevant to the exclusion;
  - d) that, regardless of whether the excluded pupil has recognised SEND, parents have a right to require the Local Authority to appoint an SEND expert to advise the review panel;
  - e) details of the role of the SEND expert; and
  - f) that parents may, at their own expense, appoint someone to make written and/or oral representations to the panel.
- That, in addition to the right to apply for an independent review panel, if parents believe that there has been unlawful discrimination in relation to the exclusion then 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. 23 Section 51A Education Act 2002 and regulations made under that section.
- That a claim of discrimination under the Equality Act 2010 made under these routes should be lodged within six months of the date on which the discrimination is alleged to have taken place (e.g. the day on which the pupil was excluded).

The full responsibilities of the Governing Body and the process to be followed are detailed in the statutory guidance.

## 6. An independent review

If parents apply for an independent review, the LA will arrange for an independent panel to review the decision of the 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 Governing Body Sub-Committee of its decision to not reinstate a pupil.

The Local Authority must constitute the panel with either three or five members (as decided by the Local Authority) representing each of the three categories below. A five member panel must be constituted with two members from each of the categories of school Governors and Headteachers:

- 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;
- Current or former school Governors (including members of PRU management committees and directors of academy trusts) who have served as a Governor for at least 12 consecutive months in the last five years, provided they have not been teachers or Headteachers during that time.
- Headteachers or individuals who have been a Headteacher within the last five years.

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

- are a member/director of the Local Authority or Governing Body of the excluding school;
- are the Headteacher of the excluding school or anyone who has held this position in the last five years;
- are an employee of the Local Authority, or the 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 Local Authority, school, Governing Body, parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality (though an individual must not be taken to have such a connection simply because they are employed by the Local Authority as a Headteacher at another school); or
- have not had the required training within the last two years.

A clerk will be appointed to the panel.

The independent panel will decide one of the following:

- Uphold the Governing Body's decision;
- Recommend that the Governing Body reconsiders reinstatement;
- Quash the Governing Body's 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.

The Independent Panel will follow the process as stated in the statutory guidance.

## 7. 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.

The following measures may be implemented when a pupil returns from a fixed-term exclusion (additional measures may also be implemented if required):

- Agreeing a behaviour contract
- Putting a pupil 'on report'
- Internal isolation

## **8. Links with other policies**

This exclusions policy is linked to our

- Behaviour policy
- SEND policy and
- SEND information report

## **9. Monitoring arrangements**

The Headteacher monitors the number of exclusions every term and reports back to the Governors. They will also liaise with the Local Authority to ensure suitable full-time education for excluded pupils, if required.

This policy will be reviewed by the Headteacher every 2 years, or earlier if the statutory guidance is amended. At every review, the policy will be approved by the Governing Body.

Appendix 1:

A summary of the Governing Body's Duties to Review the Headteacher's Exclusion Decision

