




“Let your light shine brightly.”

Matthew 5:16

Exclusion Policy

Policy accepted by FGB on:	13/7/2021
Next review:	Summer 2022
Signed (Chair of Governors):	
Statutory policy: <u>Yes/No</u> On school website: <u>Yes/No</u>	

EXCLUSION POLICY

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 (PRUs) in England* (DfE, Sept 2017).

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

- Section 52 of the Education Act 2002, as amended by the Education Act 2011;
- the School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012;
- Sections 64–68 of the School Standards and Framework Act 1998.

In addition, the policy is based on:

- Part 7, Chapter 2 of the Education and Inspections Act 2006, which looks at 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.

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

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.

Our school is aware that off-rolling is unlawful. Ofsted defines off-rolling as:

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

A decision to exclude a pupil permanently should only be taken:

- in response to 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.

The decision on whether to exclude is for the Headteacher to take. However, where practical, the Headteacher should give the pupil an opportunity to present their case before taking the decision to exclude.

Whilst an exclusion may still be an appropriate sanction, the Headteacher should take account of any contributing factors that are identified after an incident of poor behaviour has occurred. For example, where it comes to light that the pupil has suffered bereavement, has mental health issues or has been subject to bullying.

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. The Headteacher should also consider the use of a multi-agency assessment for a pupil who demonstrates persistent disruptive behaviour. Such assessments may pick up unidentified SEN but the scope of the assessment could go further, for example, by seeking to identify mental health or family problems.

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

The exclusion rates for certain groups of pupils are consistently higher than average. This includes pupils with SEN, pupils eligible for free school meals, looked after children and pupils from certain ethnic groups. The ethnic groups with the highest rates of exclusion are Gypsy/Roma, Travellers of Irish Heritage and Caribbean pupils.

In addition to the approaches on early intervention set out above, the Headteacher should consider what extra support might be needed to identify and address the needs of pupils from these groups in order to reduce their risk of exclusion. For example, schools might draw on the support of Traveller Education Services, or other professionals, to help build trust when engaging with families from Traveller communities.

As well as having disproportionately high rates of exclusion, there are certain groups of pupils with additional needs who are particularly vulnerable to the impacts of exclusion. This includes pupils with EHC plans and looked after children. The Headteacher should, as far as possible, avoid permanently excluding any pupil with an EHC plan or a looked after child.

4. Definition

For the purposes of 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.

5. Roles and responsibilities

5.1 The Headteacher

Informing parents

The Headteacher will immediately provide the following information, in writing, to the parents of an excluded pupil:

- the reason(s) for the exclusion;
- the length of a fixed-term exclusion or, for a permanent exclusion, the fact that it is permanent;
- information about parents’ right to make representations about the exclusion to the Governing Body and how the pupil may be involved in this;
- where there is a legal requirement for the Governing Body to meet to consider the reinstatement of a pupil;
- that parents have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend.

The Headteacher will also notify parents by the end of the afternoon session on the day their child is excluded that for the first five school days of an exclusion, or until the start date of any alternative provision where this is earlier, parents are legally required to ensure that their child is not present in a public place during school hours without a good reason. Parents may be given a fixed penalty notice or prosecuted if they fail to do this.

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 Body and local authority

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 five school days (or more than 10 lunchtimes) in a term;
- exclusions which would result in the pupil missing a public examination or 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.

5.2 The Governing Body

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

Within 14 days of receipt of a request, the Governing Body will provide the Secretary of State and the LA with information about any exclusions in the last 12 months.

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

5.3 The LA

For permanent exclusions, the LA is responsible for arranging suitable full-time education to begin no later than the sixth day of the exclusion. In Somerset this responsibility is delegated to the Frome Learning Partnership (FLP).

6. Considering the reinstatement of a pupil

The Governing Body 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 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.

Where an exclusion would result in a pupil missing a public examination or national curriculum test, the Governing Body will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the chair of the Governing Body (or the vice-chair where the chair is unable to make this consideration) will consider the exclusion independently and decide whether or not to reinstate the pupil.

Where the Governing Body is legally required to consider the reinstatement of an excluded pupil, they should:

- not discuss the exclusion with any party outside the meeting;
- ask for any written evidence in advance of the meeting (including witness statements and other relevant information held by the school, such as those relating to a pupil's SEN);
- where possible, circulate any written evidence and information, including a list of those who will be present, to all parties at least five school days in advance of the meeting;
- allow parents and the pupil to be accompanied by a friend or representative (where a pupil under 18 is to be invited as a witness, the Governing Body should first seek parental consent and invite the parents to accompany their child to the meeting);
- comply with their duty to make reasonable adjustments for people who use the school and consider what reasonable adjustments should be made to support the attendance and contribution of parties at the meeting (e.g. where a parent or pupil has a disability in relation to mobility or communication that has an impact upon their ability to attend the meeting or to make representations); and
- identify the steps they will take to enable and encourage the excluded pupil to attend the meeting and speak on their own behalf (e.g. providing accessible information or allowing them to bring a friend), taking into account the pupil's age and understanding; or how the excluded pupil may feed in their views by other means if attending the exclusion meeting is not possible.

In reaching a decision, the Governing Body 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.

The Governing Body can either:

- decline to reinstate the pupil; or
- direct the reinstatement of the pupil immediately, or on a particular date.

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 will notify, in writing, the Headteacher, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the Governing Body's 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 SEN are considered to be relevant to the exclusion;
 - that, regardless of whether the excluded pupil has recognised SEN, parents have a right to require the LA to appoint a SEN expert to attend the review;
 - details of the role of the SEN expert and that there would be no cost to parents for this appointment;
 - that parents must make clear if they wish for a SEN 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 six 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 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 of its decision to not reinstate a pupil.

A panel of three or five members will be constituted with representatives from each of the categories below. Where a five-member panel is constituted, two members will

come from the school governors category and two 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 five years, provided they have not been teachers or headteachers during this 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 of the LA, or Governing Body of the excluding school;
- are the Headteacher of the excluding school, or have held this position in the last five years;
- are an employee of the LA, 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 LA, school, Governing Body, 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 two years (see Appendix 1 for what training must cover).

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.

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 Governing Body 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 reintegration 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 (the points below are suggestions only and should be adapted to your school's specific circumstances):

- agreeing a behaviour contract;
- agreeing a joint plan, including any support for the child and family.

10. Monitoring arrangements

The SENCO monitors the number of exclusions every term and reports back to the Headteacher. They also liaise with the LA to ensure suitable full-time education for excluded pupils.

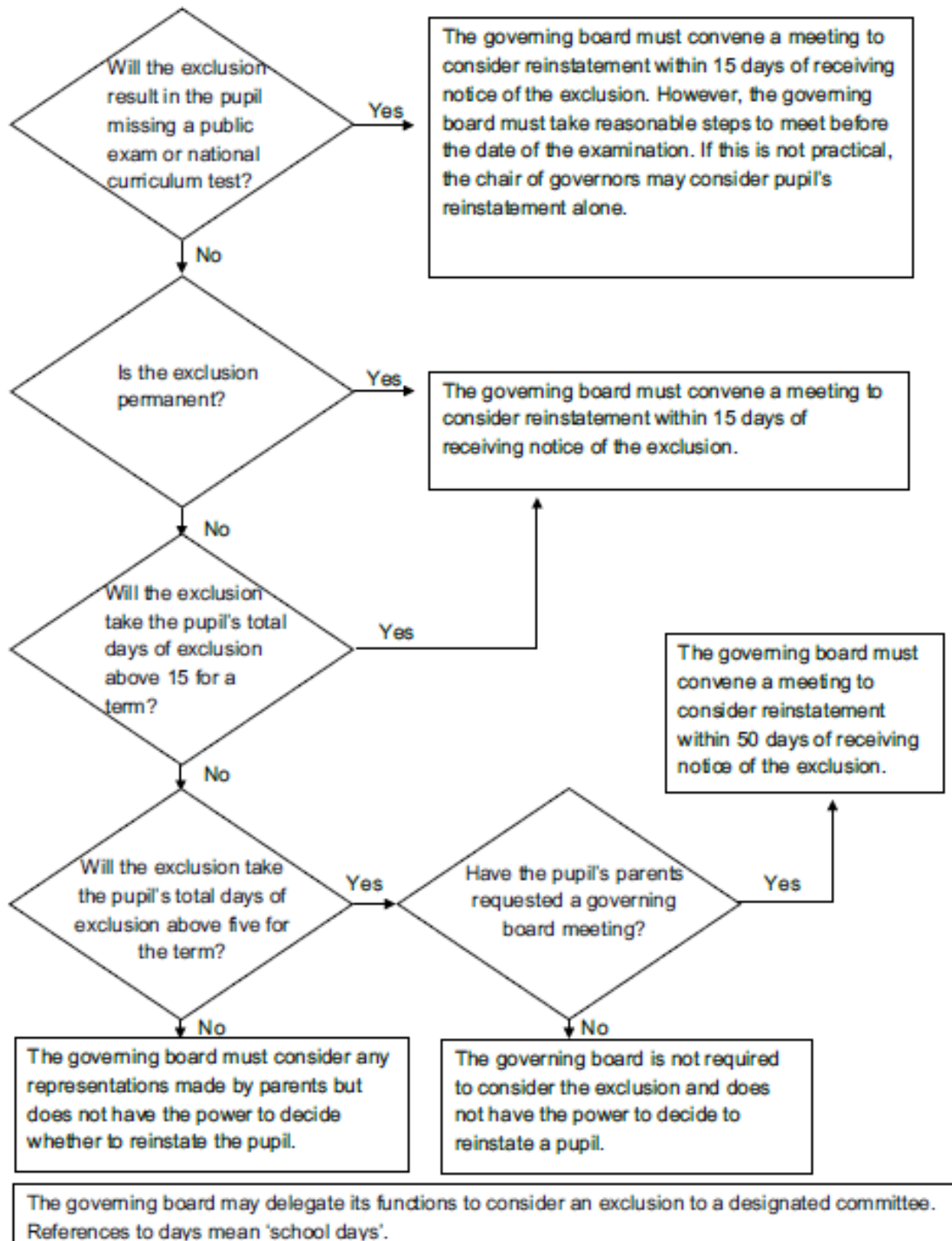
This policy will be reviewed by the SENCO annually. At every review, the policy will be shared with the Governing Body.

11. Links with other policies

This exclusions policy is linked to our:

- School Behaviour (Pupil Discipline) Policy;
- SEN Policy and information report.

APPENDIX A: A SUMMARY OF THE GOVERNING BODY'S DUTIES TO REVIEW THE HEADTEACHER'S EXCLUSION DECISION



APPENDIX B: INDEPENDENT REVIEW PANEL TRAINING

The local authority must ensure that all members of an independent review panel and clerks have received training within the two 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 bodies 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.