Exclusions Policy

Henley Green Primary School

Approved by: [Name]  Date: June 2020

Last reviewed on: June 2020

Next review due by: September 2021
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 and staff in school are safe and happy

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](https://www.gov.uk/guidance/exclusion-from-maintained-schools-academies-and-pupil-referral-units-prus-in-england).

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


In addition, the policy is based on:

- Part 7, chapter 2 of the [Education and Inspections Act 2006](https://www.gov.uk/government/legislation/education-and-inspections-act-2006), which looks at parental responsibility for excluded pupils
- Section 579 of the [Education Act 1996](https://www.gov.uk/government/legislation/education-act-1996), which defines ‘school day’

3. The decision to exclude

Only the headteacher, or acting headteacher, can exclude a pupil from school can exclude a pupil.

A permanent exclusion will be taken as a last resort once all other options have been thoroughly deliberated and considered.

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:

- 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 disabilities (SEND)

4. Definition

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

5. Roles and responsibilities

5.1 The Headteacher, Deputy Headteacher or Assistant Headteacher

Informing parents

Staff 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 board and how the pupil may be involved in this
• Where there is a legal requirement for the governing board to meet to consider the reinstatement of a pupil, and 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 10 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.

Informing the governing board and local authority

The headteacher will immediately notify the governing board 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

For all other exclusions, the headteacher will notify the governing board (at Q&S Governor Meeting) and LA once a term by Admin Team.

5.2 The governing body

Responsibilities regarding exclusions is delegated to a panel consisting of at least 3 governors.

The panel 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 Local Authority with information about any exclusions in the last 12 months.

For a fixed-period exclusion of more than 5 school days, the governing body and Coventry LA 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.

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

The Governing Body 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 panel 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 panel 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 Panel’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:
  o 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 LA to appoint an SEND 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 LA will arrange for an independent panel to review the decision of the governing board 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 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
- Headteachers or individuals who have been a headteacher within the last 5 years

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

- Are a member of the LA or governing board of the excluding school
- Are the headteacher of the excluding school, or have held this position in the last 5 years
- Are an employee of the LA or the governing board, 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 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 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 board’s decision
- Recommend that the governing board reconsiders reinstatement
- Quash the governing board’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 board 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.

School will make every effort to facilitate these meetings, removing barriers for parents where possible (eg providing interpreters, meeting outside of parent employment hours, facilitating childcare for siblings where possible eg Breakfast Club)

Parents should make every effort to prioritise these meetings as a positive step towards reintegration of their child.

Where parents have not attended, senior staff will meet with the child, setting out expectations for their return. These will be recorded in a letter for parents.

10. Monitoring arrangements
The Inclusion Lead monitors the number of exclusions every term and reports back to the Governing Body and Head Teacher. They also liaise with the local authority to ensure suitable full-time education for excluded pupils.

This policy will be reviewed by The Head Teacher and Leadership Team every 2 years. At every review, the policy will be shared with the governing board.

11. Links with other policies
This exclusions policy is linked to our

- Behaviour policy
- SEND policy and information report

Appendix 1: independent review panel training
The LA 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