

# Parklands Community Primary & Nursery School



## Exclusions Policy

*September 2022*

## Rationale

Parklands Community Primary and Nursery School will always strive to avoid exclusion. However, there may be occasions when this outcome is the only option available to ensure the effective education and future health, safety and wellbeing of the whole school community.

In the event of this decision being taken, 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)

## Introduction

This policy is based on statutory guidance from the Department for Education: [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:

- Section 52 of the Education Act 2002, as amended by the Education Act 2011
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012

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](#)

## The Decision to Exclude

Exclusion is an extreme sanction. Only the headteacher, or acting headteacher, can exclude a pupil from school.

The decision to exclude a pupil will be taken in the following circumstances:

- (a) In response to a serious breach of the School's Behaviour Policy
- (b) If allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

A permanent exclusion will always be taken as a last resort.

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

“...the 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.

Exclusion, whether fixed term or permanent may be used for any of the following, all of which constitute examples of unacceptable conduct:

- verbal abuse to pupils and/or staff member
- physical abuse to/attack on pupils and/or staff member
- serious actual or threatened violence against another pupil or staff member
- indecent behaviour
- damage to property
- misuse of illegal drugs or misuse of other substances
- theft
- sexual abuse or assault
- supplying an illegal drug
- carrying an offensive weapon
- arson
- unacceptable behaviour which has previously been reported and for which school sanctions and other interventions have not been successful in modifying the pupil's behaviour.

This is not an exhaustive list and there may be other situations where the Headteacher makes the judgement that exclusion is an appropriate sanction.

## **Exclusion Procedure**

Most exclusions are of a fixed term nature and are of short duration (usually between one and three days).

The DfE regulations allow the Headteacher to exclude a pupil for one or more fixed periods not exceeding 45 school days in any one school year, or permanently.

The Governors have established arrangements to review promptly all permanent exclusions from the School and all fixed term exclusions that would lead to a pupil being excluded for over 15 days in a school term or missing a public examination.

The Governors have established arrangements to review fixed term exclusions which would lead to a pupil being excluded for over five days but not over 15 days in a school term where a parent has expressed a wish to make representations. There are two exclusion Governors: Emily Reid and Angela Claydon.

For the purpose of exclusions, a 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.

Following exclusion, parents are contacted immediately where possible. A letter will be sent by post (or by hand) giving details of the exclusion and the date the exclusion ends. Parents have a right to make representations to the Governing Board as directed in the letter.

During the course of a fixed term exclusion where the pupil is to be at home, parents are advised that the pupil is not allowed on the school premises, and that daytime supervision is their responsibility as parents/guardians.

## Returning from a Fixed Term Exclusion

A reintegration interview will be held following the expiry of the fixed term exclusion. This will be held involving the pupil, parents, a member of the senior management Team and other staff where appropriate.

The following measures may be implemented when a pupil returns from a fixed-term exclusion

- Revising the home-school partnerships
- Phased return
- Restorative justice process

## Permanent Exclusion

The decision to exclude a pupil permanently is a serious one. There are two main types of situation in which permanent exclusion may be considered:

1. The first is a final, formal step in a concerted process for dealing with disciplinary offences following the use of a wide range of other strategies, which have been used without success. It is an acknowledgement all available strategies have been exhausted and is used as a last resort. This would include persistent and defiant misbehaviour including bullying (which would include racist or homophobic bullying) or repeated possession and/or use of an illegal drug on school premises.
2. The second is where there are exceptional circumstances and it is not appropriate to implement other strategies and where it could be appropriate to permanently exclude a pupil for a first or 'one off' offence. These might include:
  - serious actual or threatened violence against another pupil or a member of staff
  - sexual abuse or assault
  - supplying an illegal drug
  - carrying an offensive weapon. Offensive weapons are defined in the Prevention of Crime Act 1953 as "any article made or adapted for causing injury to the person; or intended by the person having it with him for such use by him".
  - arson

The school will consider police involvement for any of the above offences. These instances are not exhaustive but indicate the severity of such offences and the fact that such behaviour seriously affects the discipline and wellbeing of the school. For permanent exclusion, the Trust/Governing Board is responsible for arranging suitable full-time education to begin no later than the sixth day of the exclusion.

### **General factors the school considers before making a decision to exclude**

Exclusion will not be imposed instantly unless there is an immediate threat to the safety of others in the school or the pupil concerned. Before deciding whether to exclude a pupil either permanently or for a fixed period the Head will:

- ensure appropriate investigations have been carried out;
- consider all the evidence available to support the allegations taking into account the behaviour policy, any additional needs and the equality policy;
- allow the pupil to give her/his version of events;
- check whether the incident may have been provoked for example by bullying or by racial or sexual harassment.

If the Head is satisfied that on the balance of probabilities the pupil did what he/she is alleged to have done, exclusion will be the outcome.

## Considering the Reinstatement of a Pupil

The Governing Board 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 Board 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.

The Governing Board can either:

- Decline to reinstate the pupil, or
- Direct the reinstatement of the pupil immediately, or on a particular date

In reaching a decision, we will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the head teacher 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 Board 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 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 Trustees to appoint an 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 an 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 6 months of the date on which the discrimination is alleged to have taken place.

## **An Independent Review**

If parents apply for an independent review, the Trust 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 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 governor's category and 2 members will come from the head teacher 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 head teachers 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 Trust 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 Trust 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 Trust, 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.

## **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.

## **Monitoring arrangements**

The Headteacher and support staff monitor the number of exclusions every term and reports back to the Governors and Trustees. They also liaise with the local authority to ensure suitable full-time education for excluded pupils.

## **Links with other policies**

This exclusions policy is linked to our:

- Behaviour Policy
- SEND Policy