



# **EXCLUSION POLICY**

## DOCUMENT CONTROL

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## CONTENTS

<b>1. Introduction</b> .....	<b>1</b>
<b>2. What is Exclusion?</b> .....	<b>2</b>
<b>3. Reasons for Exclusion</b> .....	<b>2</b>
<b>4. Deciding to Exclude</b> .....	<b>2</b>
<b>5. The Exclusion Process</b> .....	<b>3</b>
5.1 Fixed Term (temporary) Exclusion .....	3
5.2 Permanent Exclusion .....	5
<b>6. Exclusion of a child who has Special Educational Needs</b> .....	<b>6</b>
<b>7. The Role of Governors/Trustees</b> .....	<b>6</b>
<b>8. What is an Independent Review Panel?</b> .....	<b>7</b>
<b>9. Marking Attendance Registers Following Exclusion</b> .....	<b>8</b>

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## 1. INTRODUCTION

Flimby Primary School is an inclusive school which aims to promote equality in all aspects of school life. We take a positive approach to encouraging good behaviour but also recognise that good discipline in our school is essential to ensure all pupils can benefit from the educational opportunities we provide.

The Government supports Head teachers in using exclusion from school as a sanction where it is warranted but we understand this is a last resort. We recognise it is our responsibility as a school to communicate to pupils, staff, and parents our behaviour expectations and the responsibility of all individuals working with pupils to ensure that no exclusion will be initiated without first exhausting other strategies or in the case of a serious incident, a thorough investigation. We have a range of policies and procedures in place to promote good behaviour and appropriate conduct, we take steps to access local support services like Inclusion Support Officers and Early Help Services, and we strive to foster good parental engagement.

Whilst exclusion may be an appropriate sanction, our Head teacher will investigate whether any contributing factors may have led to the incident/s of poor behaviour e.g. bereavement, mental health issues or bullying. For more information about the strategies we use and resources available to help us manage behaviour, please see our Behaviour Policy and procedures.

When this policy talks about parents, we mean a child's birth parents or anyone who has parental responsibility (which includes the local authority where it has a care order in respect of the child) and any person (for example, a foster carer) with whom the child lives. Where practicable, all those with parental responsibility will be involved in the exclusions process.

As a school we discharge our legal obligation to parents by recognising that obligations are to the 'relevant person' – a parent or the pupil, who is aged 18 or over.

When this policy talks about a 'term', we mean the autumn, spring or summer terms and the 'academic year' means our academic year beginning with the first day of school after 31 July and ending with the first day of school after the following 31 July.

This policy sets out our normal arrangements and procedures that must follow a decision to exclude on disciplinary grounds and is in line with the 2017 statutory guidance 'Exclusion from maintained schools, academies and pupil referral units in England'. It should be read in conjunction with the school's Behaviour Policy which sets out in more detail the disciplinary grounds that may lead to exclusion and others where relevant e.g. Single Equality Policy, Special Educational Needs and Disabilities Policy.

During a public health emergency like the coronavirus (COVID-19) pandemic which significantly impacts on the ability of our governing board/trustees to meet to discharge their legal duties regarding exclusions, an Addendum to this Exclusion Policy may become necessary and we will follow relevant DfE statutory guidance in place at that time, for example, Changes to the school exclusion process during the coronavirus (COVID-19) outbreak to devise it. It will describe any temporary changes made to our school exclusion process due to the public health emergency and must be read in conjunction with this policy.

## **2. WHAT IS EXCLUSION?**

Exclusion is an extremely serious disciplinary sanction that can only be decided by the Head teacher. It means that a pupil is not allowed on the school premises for the duration of the Exclusion. If a pupil excluded from school is found in a public place during normal school hours during the first five school days of exclusion, then a person with parental responsibility for them may be prosecuted or given a fixed penalty notice (a fine).

A pupil may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or permanently and there are two types of Exclusion:

- Fixed-Term Exclusion - when a pupil must not come to school for one or more fixed periods of time.
- Permanent Exclusion - when a child is permanently excluded from school and not allowed to return.

## **3. REASONS FOR EXCLUSION**

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

- In response to a serious breach of the school's Behaviour Policy.
- If allowing the pupil to remain in school would seriously harm the education or welfare of other people or the pupil themselves in the school.

For example, exclusion could be used for any of the following, all of which constitute examples of unacceptable conduct (including outside of school), and are serious infringements of our Behaviour Policy:

- Verbal abuse to staff or other adults or to pupils
- Physical abuse to/attack on staff or other adults or pupils
- Indecent behaviour, sexual abuse, or sexual assault
- Damage to property
- Misuse of illegal or prescription drugs or other substances including the supply of an illegal or controlled substance
- Theft
- Serious actual or threatened violence against another pupil or a member of staff or of someone else who is part of the school community
- 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 behaviour.

## **4. DECIDING TO EXCLUDE**

When we decide on any kind of exclusion we will:

- take account of our legal duty of care when sending a pupil home following exclusion;

- establish the facts in relation to the exclusion decision according to the civil burden of proof i.e. on ‘the balance of probabilities’ (whether the breach more than likely did, than did not, happen) and not the criminal burden of proof, ‘beyond reasonable doubt’;
- take care in the process not to discriminate against, harass or victimise pupils because of: sex; race; disability; religion or belief; sexual orientation; pregnancy/maternity; or gender reassignment and make reasonable adjustments to ensure everyone can participate in the process, including where a difficulty may be due to English not being a parent’s first language;
- communicate without delay in person or by telephone in the first instance to give the parents an opportunity to ask any initial questions or raise concerns directly with the Head teacher;
- communicate decisions clearly and in writing with all due regard for necessary reasonable adjustments as above and by an appropriate method which might include text message, email, or notice given in person or sent home with the pupil or posted/hand delivered to the last known home address. If a notice is sent home with a pupil, we will consider the need to send a duplicate copy by an alternative method as well or take steps to confirm receipt of the notice;
- notify the governing body/board of trustees and Local Authority of any permanent exclusion, any exclusion of more than 5 days or 10 lunchtimes in one term, and any exclusion that means a pupil will miss a statutory examination or assessment (including the reason/s for and duration of the exclusion);
- notify the local authority and governing body/board of trustees once per term of any other exclusions not already notified;
- within 14 days of any request, provide the Secretary of State for education and (in the case of maintained schools and PRUs) the local authority, with information about any exclusions within the last 12 months;
- in the case of a permanent exclusion where the pupil lives outside the local authority area in which our school is located, notify the pupil’s ‘home authority’ of the exclusion and reason(s) for it without delay so they can arrange to meet their legal duty to provide suitable full-time education.

## **5. THE EXCLUSION PROCESS**

### **5.1 Fixed Term (temporary) Exclusion**

A temporary/fixed term exclusion is when a pupil is excluded from school for one or more fixed periods of time and must remain home. It can be for up to a maximum of 45 school days in a single academic year and does not have to be continuous periods.

A fixed period can also be for just parts of a school day. For example, if a pupil’s behaviour at lunchtime is disruptive, they may be excluded from the school premises for the duration of the lunchtime period. Lunchtime exclusions are counted as half a school day for statistical purposes and in determining whether a governing body meeting is triggered.



We aim to make an exclusion the shortest time necessary to ensure minimal disruption to the child's education, whilst being mindful of the seriousness of the breach of policy. A fixed-period exclusion cannot be extended or converted to a permanent exclusion. 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.

When we decide on a fixed term exclusion we will:

- inform parents explaining the reasons for the exclusion and how long it will last;
- provide resources/activities for the pupil for the first 5 days of the exclusion;
- make arrangements for alternative education for a pupil from the 6th day if the exclusion is for more than 5 days (or consecutive shorter fixed-period exclusions accumulate to more than 5 days) and we will include the following information (if we can find it out in within the timescales):
  - the start date for any provision of full-time education that has been arranged;
  - the start and finish times, including the times for morning and afternoon sessions if relevant;
  - the address at which the provision will take place; and
  - any information required by the pupil to identify the person they should report to on the first day.
- explain that during the first 5 days of any exclusion, the pupil must not be in a public place during school hours and that parents are responsible for the whereabouts of the pupil because a parent who fails to comply with this duty without reasonable justification will be committing an offence and may be given a fixed penalty notice or be prosecuted;
- arrange a re-integration meeting on the pupil's return to school where all those concerned can discuss the best way forward for the pupil;
- ensure parents know about their right to make representations about the exclusion to the governing body/trustees, how representations should be made and, where there is the legal right to meet with the governing body/trustees to have them consider the exclusion, to be represented at that meeting (at their own expense) and to bring a friend. See Section 7 for more information about the role of governors/trustees and this process.
- provide information about relevant sources of free and impartial information including:
  - a link to this statutory guidance on exclusions [www.gov.uk/government/publications/school-exclusion](http://www.gov.uk/government/publications/school-exclusion);
  - a link to sources of impartial advice for parents such as the Coram Children's Legal Centre ([www.childrenslegalcentre.com](http://www.childrenslegalcentre.com)), or ACE Education ([www.aceed.org.uk](http://www.aceed.org.uk)) and their advice line service on 03000 115 142 on Monday to Wednesday from 10 am to 1 pm during term time); and#

- where relevant, links to local services, such as Traveller Education Services, the Information Advice & Support Services Network (formerly known as the local parent partnership) (<https://councilfordisabledchildren.org.uk/information-advice-and-support-servicesnetwork/about> the National Autistic Society (NAS) School Exclusion Service (England) (0808 800 4002 or [schoolexclusions@nas.org.uk](mailto:schoolexclusions@nas.org.uk)), or Independent Parental Special Education Advice ([www.ipsea.org.uk](http://www.ipsea.org.uk)).

If we can't provide any of the information, we need to about alternative education in the timescales, we will provide a subsequent notice later, without delay and 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 6th day of an exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent. We understand how important it is to write legally correct letters about exclusion and the process so we will use templates provided or recommended to us by our Local Authority.

## 5.2 Permanent Exclusion

A permanent exclusion is when a child is permanently excluded from school and not allowed to return. This is a very serious outcome and decision, and the Head teacher will consult with senior leaders and the chair of the governing body/board of trustees as soon as possible in such a case.

We will follow the same procedure to decide on and initiate a permanent exclusion as for a fixed term exclusion (including using appropriate template letters from our Local Authority), but where a child is not returning to our school, we will not arrange alternative education and instead will take steps to initiate an assessment of the pupil by the local authority responsible for their continuing education (from the 6<sup>th</sup> day after exclusion), so that a long-term re-integration plan for a new placement can be put in place. We will also draw attention to a pupil's statement of SEND if they have one because the Local Authority must ensure that an appropriate full time placement is identified in consultation with the parents, who retain their rights to express a preference for a school that they wish their child to attend, or make representations for a placement in any other school. The governing body/board of trustees will meet to decide whether to reinstate a pupil and if the Head teachers' decision to exclude was justified based on the evidence.

Parents and the pupil will have an opportunity to present their point of view, regarding the exclusion and governors/trustees will either uphold the exclusion or reinstate the pupil.

If the permanent exclusion is upheld by the governing body/board of trustees, parents have the right to appeal to an Independent Review Panel. This panel must be arranged within 15 days of the permanent exclusion (or for exclusions over 15 days) and will be at a time and date convenient to all parties. Parents can ask the academy to ask a Local Authority representative to attend but trustees will decide whether they can make comment or just observe.

Where possible, written evidence including other relevant information should be circulated to all parties of an Independent Review Panel at least 5 days in advance of the meeting. See [Section 7](#) for more information about the role of governors/trustees and this process.

## **6. EXCLUSION OF A CHILD WHO HAS SPECIAL EDUCATIONAL NEEDS**

There are certain factors that every school needs to take into consideration for children who display disruptive behaviour that is as a result of their Special Educational Need or Disabilities (SEND) so we will take steps to:

- engage proactively with parents in supporting the behaviour of pupils with additional needs;
- provide early intervention to address underlying causes of disruptive behaviour including an assessment of whether appropriate provision is in place to support any SEN or disability that a pupil may have;
- consider the use of a multi-agency assessment for pupils who demonstrate persistent disruptive behaviour;
- take account of our statutory duties in relation to SEND when administering the exclusion process including having regard to the SEND Code of Practice;
- where we have concerns about the behaviour, or risk of exclusion, of a child with additional needs, a pupil with a statement of SEN or looked after child, in partnership with others (including the Local Authority as necessary) consider what additional support or alternative placement may be required.

Ultimately, the decision to exclude a pupil must be lawful, reasonable, and fair, in particular considering our statutory duty under the Equality Act 2010 not to discriminate against pupils on the basis of protected characteristics, such as disability.

## **7. THE ROLE OF GOVERNORS**

The governing board has a duty to consider parents' representations about an exclusion and must consider the reinstatement of an excluded pupil within 15 school days of receiving notice of the exclusion if:

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

If a pupil would be excluded from school for more than 5 school days, but not more than 15, in a single term, and requested to do so by the parents, the governing body/board of trustees must consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion.

In the case of a fixed period exclusion which does not bring the pupil's total number of days of exclusion to more than five in a term, the governing body/board of trustees must consider any representations made by parents, but it cannot direct reinstatement as it does not have the power to overturn the Head teacher's decision and is not required to arrange a meeting with parents. In this case governors/trustees will consider whether it would be appropriate to place a note of their findings on the pupil's educational record. Excluded pupils will be enabled and encouraged to participate at all stages of the exclusion process, considering their age and understanding.

Following their consideration, governors/trustees may (where applicable):

- uphold an exclusion; or
- direct reinstatement of the pupil immediately or on a particular date.

Where reinstatement is not practical because for example, the pupil has already returned to school following the expiry of a fixed period exclusion or the parents make clear they do not want their child reinstated, the governing body/board of trustees must, in any event, consider whether the Head teacher's decision to exclude the child was justified based on the evidence.

In reaching a decision on whether to reinstate a pupil or not, governors/trustees will consider whether the decision to exclude the pupil was lawful, reasonable, and procedurally fair, taking account of the Head teacher's legal duties.

In the case of a permanent exclusion, parents have the right to ask for the decision to be reviewed by an Independent Review Panel which will include representatives from the governing body/board of trustees.

## **8. WHAT IS AN INDEPENDENT REVIEW PANEL?**

If applied for by parents within the legal time frame, the Local Authority/Academy Trust will, at their own expense, arrange for an Independent Review Panel hearing to review the decision of a governing body/board of trustees not to reinstate a permanently excluded pupil.

The legal time frame for an application is:

- within 15 school days of notice being given to the parents by the governing body/board of trustees of their decision to uphold a permanent exclusion; or
- where an application has not been made within this time frame, within 15 school days of the final determination of a claim of discrimination under the Equality Act 2010 in relation to the exclusion.

If requested by parents in their application for an independent review panel, the local authority/academy trust must appoint a SEND expert to attend the panel and cover the associated costs of this appointment. The SEND expert's role is like that of an expert witness, providing impartial advice to the panel on how special educational needs might be relevant to the exclusion, for example, whether the school acted reasonably in relation to its legal duties when excluding the pupil.

Parents have a right to request the attendance of a SEND expert at a review, regardless of whether the school recognises that their child has SEND.

The role of the panel is to review the governing body's/board of trustees' decision not to reinstate a permanently excluded pupil.

In reviewing the decision, the panel must consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and people working at the school. The panel must also apply the civil standard of proof rather than the criminal standard.

Following its review, the panel can decide to:

- uphold the exclusion decision;
- recommend that the governing body reconsiders their decision; or
- quash the decision and direct that the governing body considers the exclusion again.

An independent review panel does not have the power to direct a Local Advisory Board to re-instate an excluded pupil. However, where a panel decides that a Local Advisory Board's decision is flawed when considered in the light of the principles applicable on an application for judicial review, it can direct a Local Advisory Board to reconsider its decision.

## **9. MARKING ATTENDANCE REGISTERS FOLLOWING EXCLUSION**

When a pupil is excluded, they will be marked as absent using Code E. Where alternative provision is made, and pupils attend it, they will be marked using either code B (education off site) or code D (dual registration).