



# Red Hall Primary School

## Exclusions Policy

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## 1. Aims

As a school we aim to include, not exclude and we approach all behaviour in a supportive and positive way. Within our school ethos, we recognise that such behaviour can sometimes be symptomatic of a real, deeper need for our support and understanding. All children can go through times of inappropriate behaviour, therefore, we strive to never “give up” on a child as we recognise that each person has a unique contribution to make to school life and we want to support them to achieve this.

No exclusion will be initiated without first attempting other strategies or, in the case of a serious single incident, a proper investigation.

Should the school make the decision to exclude, we aim to ensure that:

- The exclusions process is applied fairly and consistently
- The exclusions process is understood by governors, staff, parents/carers 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.

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 □ 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**

## 3. The Decision to Exclude

Only the Headteacher, or a person acting with the Headteacher’s authority, 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:

*“...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.

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 (SEN) the school has a statutory duty not to discriminate against pupils on the basis of protected characteristics such as disability or race and will give particular consideration to the fair treatment of vulnerable pupils. Where the school has concerns about the risk of exclusion of a child with additional needs, a pupil with an EHC plan or LAC, it should consider what additional support may be required.

The physical and emotional health of our children and staff will always be our primary concern, when making any decision to exclude.

#### **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**

**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 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 5 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 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
- Exclusions which would result in the pupil missing a public examination

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 within the Headteacher's Report and LA once a term. This information will be emailed to the following email address; [School.exclusions@darlington.gov.uk](mailto:School.exclusions@darlington.gov.uk).**

Notifications must include the reasons for the exclusion and the duration of any fixed period exclusion

### **The Governing Body**

Responsibilities regarding exclusions are delegated to the Governing Body consisting of at least 3 governors.

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 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 will arrange suitable full-time education for the pupil. This provision will begin no later than the sixth day of the exclusion.

### **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.

## **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

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, 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 board (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.

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 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.

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/carers and the Local Authority of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the governing body 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 Local Authority 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 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

## **7. An independent review**

If parents apply for an independent review, the Local Authority 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 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 Local Authority, 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 Local authority, 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 Local Authority, school, governing board, parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality 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 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:

- *Agreeing a behaviour contract/behaviour chart*
- *Putting a pupil on a home/school diary*
- *Additional in class support*

### **10. Monitoring arrangements**

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

This policy will be reviewed every 2 years. At every review, the policy will be shared with the governing body.

### **11. Links with other policies**

This exclusions policy is linked to our

- Expectations and Choices policy (our school behaviour belief)
- SEND policy and information report

## Appendix 1

### Letter to Parents

Dear **parent/ guardian**,

I am writing to inform you of my decision to exclude **Name** for a fixed period of **\_** days. This means that **he/ she** will not be allowed in school for this period. The exclusion begins on **1<sup>st</sup> date of exclusion** and ends on **last date of exclusion**.

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude **Name** has not been taken lightly. **Name** has been excluded for this fixed period because of **reason**.

You have a duty to ensure that your child is not present in a public place in school hours during this exclusion from **1<sup>st</sup> date of exclusion to last date of exclusion** unless there is reasonable justification for this. I must advise you that you may receive a penalty notice from the local authority if your child is present in a public place during school hours on the specified dates. If so, it will be for you to show reasonable justification.

We will set work for **Name** to be completed on the days specified in the previous paragraph as school days during the period of his exclusion when you must ensure that **he/ she** is not present in a public place without reasonable justification. Please ensure that work set by the school is completed and returned to us promptly for marking.

You have the right to make representations about this decision to the governing body. If you wish to make representations please contact **Contact for governing body**, as soon as possible. Whilst the governing body has no power to direct reinstatement, they must consider any representations you make and may place a copy of their findings on your child's school record.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to appeal, and/or make a claim, to the Special Educational Needs and Disability Tribunal (SENDIST). The address to which appeals should be sent is SENDIST, Mowden Hall, Staindrop Road, Darlington DL3 9DN.

You also have the right to see a copy of **Name's** school record. Due to confidentiality restrictions, you will need to notify me in writing if you wish to be supplied with a copy of **Name's** school record. I will be happy to supply you with a copy if you request it. There may be a charge for photocopying.

You may wish to contact The Education Services Team, (01325) 388496, who can provide advice. You may also find it useful to contact the Advisory Centre for Education (ACE) — an independent national advice centre for parents of children in state schools. They offer information and support on state education in England and Wales, including on exclusion from school. They can be contacted on 020 7704 9822 or at [www.ace-ed.org.uk](http://www.ace-ed.org.uk).

**Name's** exclusion expires on **last date of exclusion** and we expect **Name** to be back in school **on date due back**.

A reintegration meeting has been arranged with **staff name, time, date**.

Yours sincerely,

Ms J Davidson  
Headteacher

Exclusions Policy

**Appendix 2**

**The Use of Exclusion: At- Glance-Guidelines For Headteachers**

<b>Illegal/No grounds</b>	<b>Reasonable Grounds</b>	<b>Strong Grounds</b>
Failure to do homework	Breach of the school's behaviour policy	Serious breach of the school's behaviour policy
Poor academic performance	Serious harm to the education or welfare of the pupil or others	Bringing the school into disrepute through inappropriate or dangerous behaviour or seriously endangering the safety of others
Lateness	Persistently leaving school premises without authorisation	Supplying or using an illegal drug on school premises
Breaches of school uniform or rules on appearance, for example: wearing jewellery.	Bringing the school into disrepute at a public event	Carrying, threatening to use and or using an offensive weapon (including fireworks)
Failing to meet the requirements of the Disability Discrimination Act by excluding disabled pupils without due regard to their disability or treating them less favourably than others because of their disability	Persistent refusal to cooperate with school staff, verbal aggression towards staff, pupils or other members of the school community	Attempted arson on school grounds, destruction or serious damage of school property or buildings
Failing to meet the requirements of the Race Relations Act by excluding pupils or discriminating unfavourably on the grounds of race	Bullying, racial ,sexual or other harassment of staff, pupils or other members of the school community	Repeated threats and highly offensive and abusive language towards school staff, pupils or other members of the school community

		Repeated bullying, racial, sexual or other harassment of staff, pupils or other members of the school community
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