



Chelmondiston C of E Primary School

Exclusion policy



Approved by:

Local Governing body

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Introduction

This policy is devised from statutory guidance issued by the Dept of Education in September 2012 (A guide for those with legal responsibilities in relation to exclusion).

The principal legislation that this document relates to is:

- The Education Act 2002 as amended by Education Act 2011
- The School Discipline(pupil exclusions and reviews) (England) Regulations 2012;
- The Education and Inspections Act 2006 and
- The Education (Provision of Full Time Education for excluded pupils) (England) Regulations 2007.

The definition of a parent for the purposes of the education act and this policy is broadly drawn. In addition to a child's birth parents, references to parents in this guidance include any person who has parental responsibility (which includes the local authority where it has a care order in respect of the child) and any person (e.g. a foster carer) with whom the child lives.

'Informal' or 'unofficial' exclusions, such as sending pupils home 'to cool off', are unlawful, regardless of whether they occur with the agreement of parents or carers. Any exclusion of a pupil, even for short periods of time, must be formally recorded.

Chelmondiston C of E Primary School has the power to direct a pupil off-site for education to improve his or her behaviour. A pupil can also transfer to another school as part of a 'managed move' where this occurs with the consent of the parties involved, including the parents. However, the threat of exclusion must never be used to influence parents to remove their child from the school.

1. Policy Overview

Chelmondiston CE Primary School is committed to valuing diversity and to equality of opportunity. We aim to create and promote an environment in which pupils, parents/carers and staff are treated fairly and with respect, and feel able to contribute to the best of their abilities.

The Governing Body recognise the values under the Equality Act 2010 ("the Equality Act") Chelmondiston CE Primary School will not discriminate against, harass or victimise pupils because of their: sex; race; disability; religion or belief; sexual orientation; because of a pregnancy / maternity; or because of a gender reassignment. For disabled children, this includes a duty to make reasonable adjustments to policies and practices. Chelmondiston CE Primary School strives to advance equality of opportunity between people who share a protected characteristic and people who do not. Full consideration has been given to this during the formulation of this policy as it is the governors' aim that no-one at Chelmondiston CE Primary School should suffer discrimination, either directly or indirectly, or harassment on any of these grounds.

We aim to include, not exclude, and we approach all challenging behaviour in a supportive and positive way. 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, and we strive to never "give up" easily 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.

It is expected that exclusion would normally take place at the end of a disciplinary process when other sanctions and programmes have failed to modify the undesirable behaviour, or where a pupil commits a serious breach of discipline. However, the Head teacher may exclude as an immediate response, for example when health and safety, welfare or the education of another is threatened.

A decision to exclude a pupil, either for a fixed period or permanently is seen as a last resort by the school. The physical and emotional health of our children and staff is our primary concern, and we therefore accept that in some rare situations exclusion may be necessary, if all other strategies have been exhausted.

The school is responsible for communicating to pupils, parents/carers and staff its expectations of standards of conduct. A range of policies and procedures are in place to promote good behaviour and appropriate conduct.

These are:

- Behaviour Policy;
- Anti-Bullying Policy

2. Reasons for Exclusion:

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

Whilst exclusion may still be an appropriate sanction, the Head teacher 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 a pupil has suffered bereavement, has mental health issues or has been subject to bullying.

These are a selection of reasons where exclusion may be appropriate:

- Serious breach of the school's rules or policies.
- Risk of harm to the education or welfare of the pupil or others in the school.
- Physical Assault against a pupil (e.g. fighting, violent behaviour, wounding, obstruction, jostling.)
- Physical Assault against an adult (e.g. violent behaviour, wounding, obstruction and jostling.)
- Verbal Abuse or Threatening Behaviour against a pupil (e.g. threatened violence, aggressive behaviour, swearing, homophobic abuse and harassment, verbal intimidation, carrying an offensive weapon.)
- Verbal Abuse or threatening behaviour against an adult (e.g. threatened violence, aggressive behaviour, swearing, homophobic abuse and harassment, verbal intimidation, carrying an offensive weapon)
- Bullying (e.g. verbal, physical, Cyberbullying, homophobic bullying, racist bullying)

- Racist Abuse (e.g. racist taunting and harassment, derogatory racist statements, swearing that can be attributed to racist characteristics, racist bullying, racist graffiti)
- Sexual Misconduct (e.g. sexual abuse, sexual assault, sexual harassment, lewd behaviour, sexual bullying, sexual graffiti)
- Drug and Alcohol Related (e.g. possession of illegal drugs, inappropriate use of prescribed drugs, drug dealing, smoking, alcohol abuse, substance abuse)
- Damage (e.g. vandalism, arson, and graffiti)
- Theft (e.g. stealing school property, stealing personal property (pupil or adult), stealing from local shop on a school outing, selling and dealing in stolen property)
- Persistent Disruptive Behaviour (e.g. challenging behaviour, disobedience, persistent violation of school rules)
- Other (this includes incidents that are not covered by the categories above)

Any exclusion will be the decision of the Head teacher, in consultation with the local Governing Body and the MAT.

3. Temporary Exclusion

A temporary exclusion should be for the shortest time necessary. Ofsted evidence suggests that 1-3 days is usually enough to secure benefits without adverse educational consequences.

4. Persistent or Cumulative Problems

Exclusion for a period of time from half a day to 5 days for persistent or cumulative problems would be imposed only when the school had already offered and implemented a range of support and management strategies. These strategies are outlined in the Behaviour Policy.

5. Single Incident

Temporary exclusion may be used in response to a serious breach of school rules and policies or a disciplinary offence. In such cases the Head teacher will investigate the incident thoroughly and consider all evidence to support the allegation, taking account of the school's policies. The pupil will be encouraged to give his/her version of events and the Head teacher will check whether the incident may have been provoked, for example by bullying or racial harassment. A discussion with the parents/carers will also be held.

If necessary the Head teacher will consult the Chair of Governors, the MAT and/or the Designated Safeguarding Lead.

6. Permanent Exclusion

A permanent exclusion is a very serious decision and the Head teacher will consult with the Chair of the Governing Body before enforcing it. As with a temporary exclusion, it will follow a range of

strategies and be seen as a last resort, or it will be in response to a very serious breach of school rules and policies or a disciplinary offence such as:

- Serious actual or threatened violence against another pupil or a member of staff;
- Possession or use of an illegal drug on school premises;
- Persistent bullying;
- Persistent racial harassment.
- Any other event or behaviour that is deemed serious enough by harm affecting other children, adults or property, or the child themselves.

For a permanent exclusion, if the pupil lives outside the local authority in which the school is located, the head teacher must also advise the pupil's 'home authority' of the exclusion without delay.

7. The Head Teacher's Power to Exclude

Only the Head teacher can exclude a pupil and this must be on disciplinary grounds. 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. A fixed period exclusion does not have to be for a continuous period. In exceptional cases, usually where further evidence has come to light, a fixed period exclusion may be extended or converted to a permanent exclusion.

Pupils whose behaviour at lunchtime is disruptive may be excluded from the school premises for the duration of the lunchtime period. In such cases the legal requirements in relation to exclusion, such as the head teacher's duty to notify parents, still apply. Lunchtime exclusions are counted as half a school day for statistical purposes and in determining whether a governing body meeting is triggered.

The behaviour of pupils outside school can be considered as grounds for exclusion. This will be a matter of judgement for the Head teacher in accordance with the school's published behaviour policy.

The Head teacher must take account of their legal duty of care when sending a pupil home following exclusion.

When establishing the facts in relation to an exclusion decision the head teacher must apply the civil standard of proof, i.e. 'on the balance of probabilities' it is more likely than not that a fact is true, rather than the criminal standard of 'beyond reasonable doubt'.

8. The Head Teacher's Duty to Inform Parents

Whenever the head teacher makes the decision to exclude a pupil they must, without delay, notify parents of the period of the exclusion and the reasons for it.

They must also, without delay, provide parents with the following information in writing:

- The reasons for the exclusion;

- The period of a fixed period exclusion or, for a permanent exclusion, the fact that it is permanent;
- Parents' right to make representations about the exclusion to the governing body and how the pupil may be involved in this;
- How any representations should be made; and
- where there is a legal requirement for the governing body to consider the exclusion, that parents have a right to attend a meeting, be represented at this meeting (at their own expense) and to bring a friend.
- 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 reasonable justification, and that parents may be given a fixed penalty notice or prosecuted if they fail to do so.

Parents must be informed where a fixed period exclusion has been extended or converted to a permanent exclusion. In such cases the head teacher will write again to the parents explaining the reasons for the change and providing any additional information required.

The Head teacher, where appropriate will ensure that information provided to parents is clear and easily understood. Where the parents' first language is not English consideration should be given, where practical, to translating the letter or taking additional steps to ensure that the details of the exclusion and parents' right to make representations to the governing body have been understood.

9. The Head Teacher's Duty to Inform the Governing Body

The Head teacher must, without delay, notify the governing body, the MAT and the local authority of:

- A permanent exclusion (including where 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 ten lunchtimes) in a term; and
- Exclusions which would result in the pupil missing a public examination or national curriculum test.

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

10. The Role of the Governing Body

For a fixed period exclusion of more than five school days, the governing body (or local authority in relation to a pupil excluded from a pupil referral unit) must arrange suitable full-time education for

any pupil of compulsory school age. This provision must begin no later than the sixth day of the exclusion.

Where an exclusion would result in a pupil missing a public examination or national curriculum test there is a further requirement for a governing body, so far as is reasonably practicable, to consider the exclusion before the date of the examination or test. If this is not practicable, the chair of the discipline committee may consider the exclusion independently and decide whether or not to reinstate the pupil. These are the only circumstances in which the chair can review an exclusion decision alone. In such cases parents still have the right to make representations to the governing body and must be made aware of this right. Whilst there is no automatic right for an excluded pupil to take an examination or test on the excluding school's premises, the governing body should consider whether it would be appropriate to exercise their discretion to allow an excluded pupil on the premises for the sole purpose of taking the examination or test.

Where the local governing body is legally required to consider an exclusion they 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 local governing body has a duty to consider parents' representations about exclusion. The local governing body may delegate their functions with respect to the consideration of an exclusion decision to a designated sub-committee consisting of at least three governors.

11. Calling an Exclusion Meeting

Where the local governing body is legally required to consider the decision of a head teacher to exclude a pupil they should:

- not discuss the exclusion with any party outside of 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 pupils 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);
- have regard to 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 (for example where a parent or pupil has a disability in relation to mobility or communication that impacts 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 his / her own behalf (such as 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 feel in his / her views by other means if attending the exclusion meeting is not possible.

The following parties must be invited to a meeting of the governing body and allowed to make representations:

- Parents
- The Head teacher
- A representative of the local authority
- The MAT

The local governing body must make reasonable endeavours to arrange the meeting for a date and time that is convenient to all parties, but in compliance with the relevant statutory time limits set out above. However, its decision will not be invalid simply on the grounds that it was not made within these time limits.

The local governing body should identify the steps they will take to ensure all parties will be supported to participate in their consideration and have their views properly heard. This is particularly important where pupils under 18 are speaking about their own exclusion or giving evidence to the local governing body.

When establishing the facts in relation to an exclusion decision the local governing body must apply the civil standard of proof; i.e. 'on the balance of probabilities' it is more likely than not that a fact is true rather than the criminal standard of 'beyond reasonable doubt'. In the light of their consideration, the governing body can either:

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

The governing body should ask all parties to withdraw before making a decision. Where present, a clerk may stay to help the governing body by reference to his / her notes of the meeting and with the wording of the decision letter.

12. The Decision to Exclude

The exclusion will include discussion with parents/carers, notification to the governors and the preparation of a Pastoral Support Programme (PSP) for the pupil. This PSP should give careful attention to the concern, planned support and appropriate sanctions. Normally a child will be excluded for a fixed period. The PSP would be the main vehicle for planning reintegration. In extreme cases, if there is significant concern about actual or threatened physical violence and/or persistent and malicious disruptive behaviour, permanent exclusion will be considered.

If the Head teacher decides to exclude a pupil they will:

- ensure that there is sufficient recorded evidence to support the decision;
- explain the decision to the pupil;
- contact the parents/carers, explain the decision and ask that the child be collected;
- send a letter to the parents/carers confirming the reasons for the exclusion, whether it is a permanent or temporary exclusion;
- confirm the length of the exclusion and any terms or conditions agreed for the pupil's return;
- in cases of more than a day's exclusion, ensure that appropriate work is set and that arrangements are in place for it to be marked;
- plan how to address the pupil's needs and integration back into their class on his/her return;
- plan a meeting with parents/carers and pupil on his/her return.

Where the governing body is legally required to consider an exclusion they 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. In the case of a permanent exclusion the governing body's notification must also include the information below.

- 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 following information:
 - a) the date by which an application for a review must be made (i.e. 15 school days from the date on which notice in writing of the governing body's decision was given to parents - see paragraph 74);
 - b) the name and address to whom an application for a review (and any written evidence) should be submitted;
 - c) that any application should set out the grounds on which it is being made and that, where appropriate, this should include a reference to how the pupil's special educational needs are considered to be relevant to the exclusion;
 - d) that, regardless of whether the excluded pupil has recognised special educational needs, parents have a right to require the local authority / Academy Trust to appoint an SEN expert to attend the review;
 - e) details of the role of the SEN expert and that there would be no cost to parents for this appointment;
 - f) that parents must make clear if they wish for a SEN expert to be appointed in any application for a review; and
 - g) that parents may, at their own expense, appoint someone to make written and / or oral representations to the panel and that parents may also bring a friend to the review.

That, in addition to the right to apply for an independent review panel,

The governing body should set out the reasons for their decision in sufficient detail to enable all parties to understand why the decision was made.

13. Safeguarding

Exclusion will not be enforced if doing so may put the safety of the pupil at risk. In cases where parents/carers will not comply by, for example, refusing to collect the child, the child's welfare is the priority. In this situation, depending on the reason for exclusion, the school may consider an internal exclusion until the end of the day, implementing the original exclusion decision from the time the child is collected from school, or, in more severe circumstances the school may contact Social Services and/or the Police to take the pupil off site safely.

14. Behaviour Outside School

Pupils' behaviour outside school on school business e.g. on school trips, at sports fixtures, is subject to the school's behaviour policy. Unacceptable behaviour in such circumstances will be dealt with as if it had taken place in school.

15. Pupils With Special Educational Needs (SEN) and Disabled Pupils

The school must take account of any special educational needs when considering whether or not to exclude a pupil. We have a legal duty under the Disability Discrimination Act 2005 as amended not to discriminate against disabled pupils by excluding them from school for behaviour related to their disability. The Head teacher should ensure that reasonable steps have been taken by the school to respond to a pupil's disability so the pupil is not treated less favourably for reasons related to the disability. This includes having regard to the SEN Code of Practice.

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. Head teachers should also consider the use of a multi-agency assessment for pupils who demonstrate persistent disruptive behaviour. Such assessments may pick up unidentified special educational needs but the scope of the assessment could go further, for example, by seeking to identify mental health or family problem

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 statements of special educational needs (SEN) and children in care. Head teachers should, as far as possible, avoid excluding permanently any pupil with a statement of SEN or a child in care.

Schools should engage proactively with parents in supporting the behaviour of pupils with additional needs. In relation to looked after children, schools should co-operate proactively with foster carers or children's home workers and the local authority that looks after the child.

Where a school has concerns about the behaviour, or risk of exclusion of a child with additional needs, a pupil with a statement of SEN or a looked after child it should, in partnership with others (including the local authority as necessary), consider what additional support or alternative placement may be required. This should involve assessing the suitability of provision for a pupil's

SEN. Where a pupil has a statement of SEN, schools should consider requesting an early annual review or interim / emergency review

Whether or not a school recognises that a pupil has special educational needs, all parents have the right to request the presence of an SEN expert at an independent review panel. The SEN role is to provide impartial advice to the panel about how SEN could be relevant to exclusion.

16. Marking Attendance Registers Following Exclusion

When a pupil is excluded temporarily, they should be marked as absent using Code E.

Where an application for an independent review panel has been made within 15 school days, the head teacher must wait until the review has been determined, or abandoned, before removing a pupil's name from the register.

17. Removal From The School For Other Reasons

The Head teacher may send a pupil home, after consultation with that pupil's parents/carers and a health professional as appropriate, if the pupil poses an immediate and serious risk to the health and safety of other pupils and staff, for example because of a diagnosed illness such as a notifiable disease. This is not exclusion and should be for the shortest possible time.

18. Criminal Proceedings

Head teachers need not postpone taking a decision on an exclusion solely because a police investigation is underway and / or any criminal proceedings may be brought. In such circumstances, the Head teacher will need to take a decision on the evidence available to them at the time.

Where the evidence is limited by a police investigation or criminal proceedings, the Head teacher should give particular consideration to ensuring that the decision to exclude is fair. However, the final decision on whether to exclude is for the head teacher to make.

Where the governing body is required to consider a head teacher's decision in these circumstances they cannot postpone their meeting and must decide whether or not to reinstate the pupil on the evidence available.

The fact that parallel criminal proceedings are in progress should also not directly determine whether an independent review panel should be adjourned. Relevant factors for the panel to consider will include:

- whether any charge has been brought against the pupil and, if so, what the charge is;
- whether relevant witnesses and documents are available;
- the likelihood of delay if the hearing were adjourned and the effect it may have on the excluded pupil, the parents, any victim or the school; and
- whether an adjournment or declining to adjourn, might result in injustice.

19. Procedure for Appeal

If parents/carers wish to appeal the decision to exclude, the matter will be referred to the Governing Body and handled through the Local Authority appeal procedure.

If a parent disputes the decision not to reinstate a permanently excluded pupil they can ask for this decision to be reviewed by an independent review panel.

20. Independent Review Panel

Parents may request an independent review panel even if they did not make a case to, or attend, the meeting at which the governing body considered the exclusion.

Where an application for an independent review panel has been made within 15 school days, the head teacher must wait until the review has been determined, or abandoned, before removing a pupil's name from the register.

The legal time frame for an application is:

- within 15 school days of notice being given to the parents by the governing body 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.

Any application made outside of the legal time frame will be rejected by the local authority.

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

Where the panel directs or recommends that the governing body reconsiders their decision, the governing body must reconvene to do so within 10 school days of being given notice of the panel's decision. Notice is deemed to have been given on the same day if it is delivered directly or on the second working day after posting if it is sent by first class mail.

In the case of either a recommended or directed reconsideration, the governing body must notify the following people of their reconsidered decision, and the reasons for it, in writing and without delay:

- the parents;
- the head teacher;
- the local authority and, where relevant, the 'home authority'.

21. Consideration to Reinstate a Pupil

In reaching a decision on whether or not to reinstate a pupil, the governing body should consider whether the decision to exclude the pupil was lawful, reasonable and procedurally fair, taking account of the head teacher's legal duties.

The governing body should note the outcome of their consideration on the pupil's educational record, along with copies of relevant papers for future reference.

In cases where the governing body considers parents' representations but does not have the power to direct a pupil's reinstatement, they should consider whether it would be appropriate to place a note of their findings on the pupil's educational record.

The governing body should ensure that clear minutes are taken of the meeting as a record of the evidence that was considered by governing body. These minutes should be made available to all parties on request.

The governing body 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 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.

Where reinstatement is not practical or not required, the governing body must, in any event, consider whether the head teacher's decision to exclude the child was justified based on the evidence.

24. Policy Review

This policy will be reviewed after any school exclusion to ensure that the procedures and guidelines contained within this policy are robust and fit for purpose. If there are no exclusions this policy will be reviewed as a matter of routine review every 3 years.