

Rainow Primary School

Caring, Learning, Achieving.

Exclusions Policy and Procedure

Member of staff responsible:	Headteacher
Date approved by the governors:	Autumn 23
Date to be reviewed:	Autumn 24

This policy includes:

Appendix 1 – Independent Review Panel Training

Appendix 2 – Exclusion Administration

Rationale

At Rainow School, we understand that good behaviour and discipline is essential for promoting a high quality education. Amongst other disciplinary sanctions, the school recognises that exclusion of pupils may be necessary where there has been a serious breach, or consistent breaches, of the school's Behaviour and Anti-Bullying Policy. Excluding a pupil may also be required in instances where allowing the pupil to remain in school would be damaging to the education and welfare of themselves or others; in all cases, excluding pupils will only be used as a last resort.

1. Aims

This document has been written 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).

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 also 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

The government supports Headteachers in using exclusion as a sanction where it is warranted. Only the Headteacher, or acting Headteacher, can exclude a pupil and this must be on disciplinary grounds. This decision must be lawful, rational, reasonable, fair and proportionate. A permanent exclusion should be taken as a last resort.

Our school is also 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 our Behaviour and Anti-Bullying policy.
- 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).

Headteachers must be mindful of their obligations under the Equality Act 2010 (see [The Equality Act 2010 and schools: Departmental advice for school leaders, school staff, governing bodies and local authorities](#)) to not discriminate, harass or victimise pupils from groups with protected characteristics i.e. because of their:

- [age](#)
- [disability](#)
- [gender reassignment](#)
- [marriage and civil partnership](#)
- [pregnancy and maternity](#)
- [race](#)
- [religion or belief](#)
- [sex](#)
- [sexual orientation](#)

For disabled pupils, this includes a duty to make reasonable adjustments to policies and practices. Schools must also ensure that their policies and practices do not discriminate against pupils by unfairly increasing their risk of exclusion.

It is unlawful to exclude or increase the length of an exclusion for a non-disciplinary offence. A school cannot exclude a pupil:

- because they have additional needs or a disability the school feels it is unable to meet;
- for low academic attainment / ability;
- the action of a pupil's parent;
- pupil failing to agree to, or meet, certain conditions before they are reinstated.

Headteachers must take account of their legal duty of care when sending a pupil home following an exclusion. The guidance is clear that early intervention should be used to address underlying causes of poor behaviour. This may include:

- an assessment of any special educational need or disability the pupil may have;
- an assessment of whether appropriate support is in place;
- the use of an Early Help Assessment.

Children with SEN and Cared for Children:

These are children who, because of their additional needs / circumstances, are particularly vulnerable to the impacts of exclusion.

Headteachers should, as far as possible, avoid permanently excluding a child with a Statement of Special Educational Needs / Education, Health and Care Plan (EHCP). Headteachers and governors must be mindful of their statutory duties in relation to children with special educational needs. Where a school has concerns about a pupil with SEND they should, in the first place, consult the relevant local authority Assessment & Monitoring Officer who will advise on the suitability of support for the pupil's SEN and / or consider what additional support or alternatives may be required.

Head teachers should not exclude a cared for child without first consulting with the virtual school for cared for children. Contact:- laura.rogerson@cheshireeast.gov.uk

4. Definition

For the purposes 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.

Exclusions can be:

- Lunchtime. (If a pupil is in receipt of free school meals, schools must make alternative arrangements to enable this).
- Fixed term exclusions (FTE) – from one session (half day), to 90 sessions (45 days) in one academic year.
- Permanent exclusion. (PEX)

'Informal' or 'unofficial' exclusions are unlawful, even where the child's parent/s or carer/s are in agreement. All exclusions must be formally recorded on CPOMs.

5. Roles and Responsibilities

5.1 The Headteacher

*Reporting to 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 body, and how the pupil may be involved in this.

- Where there is a legal requirement for the governing body 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.

**Sample letters for fixed and permanent exclusions are available on the exclusions page on the Cheshire East Centranet.*

Informing the Governing Body 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 and LA once a term.

5.2 The Governing Body

Responsibility regarding exclusions is delegated to an Exclusions Committee consisting of at least three governors. This committee will be constituted on an ad hoc basis, as and when required.

The Exclusions Committee has a duty to consider the reinstatement of an excluded pupil (see section 7).

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.

5.3 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 Exclusions Committee 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.

The requirements are different for fixed-period exclusions where a pupil would be excluded for more than five but less than 15 school days in the term. In this case, if the parents make representations, the governing body must consider within 50 school days of receiving the notice of exclusion whether the excluded pupil should be reinstated. In the absence of any representations from the parents, the governing board is not required to meet and cannot direct the reinstatement of the pupil.

Where an exclusion would result in a pupil missing a public examination, the Exclusions Committee will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the Chair of the governing body (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 Exclusions Committee 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 Exclusions Committee 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 Exclusions Committee 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 Exclusions Committee's decision will also include the following:

- The fact that it is permanent.
- Notice of a 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 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 Local Authority 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 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 Exclusions Committee of its decision to not reinstate a pupil.

A panel of three or five members will be constituted with representatives from each of the categories below. Where a five-member panel is constituted, two members will come from the school governors' category, and two 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 local authority or governing body 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, the governing body, 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.
- 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 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.

Examples of measures which may be implemented when a pupil returns from a fixed-term exclusion are:

- Agreeing a Behaviour Contract / Behaviour Support Plan (BSP)
- Putting a pupil 'on report'.
- Internal isolation.

10. Monitoring arrangements

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

11. Links with other policies

This Exclusions Policy and Procedure is linked to our

- School Behaviour and Discipline Policy
- School Anti-bullying policy and Procedure
- SEND policy and information report

Appendix 1: Independent Review Panel Training

The local authority 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.

Appendix 2

EXCLUSION ADMINISTRATION – BEST PRACTICE

Fixed Term Exclusions

A fixed term exclusion can be for any period of time up to 45 days in an academic year.

- Lunchtime = 1/2 day = 1 session (not counting towards 45 days total)
- Half a day = 1 session up to a maximum of 45 days = 90 sessions in an academic year
- One day = 2 sessions
- Unofficial exclusions remain unlawful

During an exclusion of 1 – 5 days, the school is responsible for ensuring that work is set from the first day of the exclusion returned and marked.

Once the decision to exclude has been made by the Head Teacher, the following process should be followed:-

- Appropriate contact to parent / carer immediately informing of the exclusion.
- Write to the parent/s within 1 day (using appropriate model letter for length of exclusion). These can be found on Cheshire East's exclusion page on the Centranet.
- Record exclusion on Sims(school's management information system / register).
- Report to the governing body.
- If the parent wishes to make representation convene a meeting of the Governors Disciplinary Committee. See statutory guidance Sept 2017.

If the exclusion is for longer than 5 days, the school is responsible from the 6th day for providing an appropriate full time education at another venue. The relevant information about this should be included in the exclusion letter. Parents / carers should always know at least 24 hours in advance about these arrangements. In the case of an exclusion of 6 days or more the school should also send a copy of the exclusion letter to exclusions@cheshireeast.gov.uk.

If the exclusion is for more than 15 continuous days or accumulates to more than 15 days in a term, a meeting of the Exclusions Committee of the governing body must be convened and the parent informed of the meeting date and venue etc. The meeting should be held at a time convenient to all parties.

If a pupil reaches 30 days fixed term exclusion in any one academic year the school should inform the exclusions service at exclusions@cheshireeast.gov.uk

Permanent Exclusion

Make appropriate contact with the parent / carer immediately and inform of the exclusion. It is good practice for the Headteacher to meet with the parent/carer/pupil in order to hear their views and any mitigating circumstances that may affect the decision to permanently exclude the pupil. The Headteacher will then verbally inform them of his/her decision and the reasons for it.

Within one day, the Headteacher must:-

1. Write to the parent.
2. Inform the governing body that a meeting will be required.
3. Advise the LA of the permanent exclusion, emailing a copy of the letter sent to the parent(s).
4. Email the LA a completed Behaviour Contract / Behaviour Support Plan (BSP), attaching all appropriate paperwork enabling them to fulfil their statutory duty to provide sixth day full time education provision.