



## Exclusion Policy

<b>Date Policy was formally adopted</b>	March 2021
<b>Review Date</b>	March 2022
<b>Chair's Name</b>	Steph Green
<b>Chair's Signature</b>	

## **Core Values**

Respect

Enjoyment

Care

Confidence

Challenge



## 1. Aims

This policy deals with the practice which informs the school's use of exclusion. It is underpinned by the shared commitment of all members of the school community to achieve the following important aims:

Our school aims to ensure that:

- The exclusions process is applied fairly and consistently
- The exclusions process is understood by governors, staff, parents and pupils
- Pupils in school are safe and happy and an educational environment is maintained in which all can learn and succeed.

## 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](#)

Guidance from Essex Primary Headteachers Association (EPHA) has also been included and considered in compiling this policy. EPHA guidance documents are included in the appendices.

## 3. The decision to exclude

Only the Headteacher, or acting Headteacher, can exclude a pupil from school. A permanent exclusion will be taken as a last resort.

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:



## Rodings Primary School Policy for Exclusion

- 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 (SEND)

Exclusion would be a last resort. Everything would be done to make sure that the child was supported in a positive way including the use of outside agencies to help limit the possibility of exclusion.

The school behaviour policy supports this ideal. Praise, reward and positive contributions are all important parts of the school's ethos. Teachers plan and teach engaging lessons and act as positive role models.

### 4. Reasons for exclusion

Exclusion, whether fixed term or permanent may be used for any of the following, all of which constitute examples of unacceptable conduct, and are infringements of the school's Behaviour Policy:

The Department of Education (DfE) list provides descriptors of reasons for exclusions. This should be used as a guide when completing exclusion paperwork.

<p>PP- Physical assault against a pupil Includes:</p> <ul style="list-style-type: none"> <li>Fighting</li> <li>Violent behaviour</li> <li>Wounding</li> <li>Obstruction and jostling</li> </ul>	<p>PA- Physical assault against an adult Includes:</p> <ul style="list-style-type: none"> <li>Violent behaviour</li> <li>Wounding</li> <li>Obstruction and jostling</li> </ul>
<p>VP- Verbal abuse/Threatening behaviour Includes:</p> <ul style="list-style-type: none"> <li>Threatened violence</li> <li>Aggressive behaviour</li> <li>Swearing</li> <li>Homophobic abuse and harassment</li> <li>Verbal intimidation</li> <li>Carrying an offensive weapon</li> </ul>	<p>BU- Bullying Includes</p> <ul style="list-style-type: none"> <li>Verbal bullying</li> <li>Physical bullying</li> <li>Homophobic bullying</li> <li>Racist bullying</li> </ul>
<p>RA- Racist abuse Includes:</p> <ul style="list-style-type: none"> <li>Racist taunting and harassment</li> <li>Derogatory racist statements</li> <li>Swearing that can be attributed to racist characteristics</li> <li>Racist bullying</li> <li>Racist graffiti</li> </ul>	<p>SM- Sexual misconduct Includes:</p> <ul style="list-style-type: none"> <li>Sexual abuse</li> <li>Sexual assault</li> <li>Sexual harassment</li> <li>Lewd behaviour</li> <li>Sexual bullying</li> <li>Sexual graffiti</li> </ul>



<p>DA- Drug and alcohol related Includes:          Possession of illegal drugs          Inappropriate use of prescribed drugs          Drug dealing          Smoking          Alcohol abuse          Substance abuse</p>	<p>DM- Damage Includes:          Vandalism          Arson          Graffiti</p>
<p>TH- Theft Includes:          Stealing school property          Stealing personal property (pupil or adult)          Stealing from local shops on school outing          Selling and dealing in stolen property</p>	<p>DB- Persistent disruptive behaviour Includes:          Challenging behaviour          Disobedience          Persistent violation of school rules</p>
<p>OT- Other Including incidents which are not covered by the categories above, this category should be used sparingly.</p>	

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

**5. Permanent Exclusion**

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

1. The first is a final, formal step in a concerted process for dealing with disciplinary offences following the use of a wide range of other strategies, which have been used without success. It is an acknowledgement that all available strategies have been exhausted and is used as a last resort. This would include persistent and defiant misbehaviour including bullying (which would include racist or homophobic bullying).

2. The second is where there are exceptional circumstances and it is not appropriate to implement other strategies and where it could be appropriate to permanently exclude a pupil for a first or 'one off' offence. These might include:

- Serious actual or threatened violence against another pupil or a member of staff.
- Sexual abuse or assault.



## Rodings Primary School Policy for Exclusion

- Supplying an illegal drug.
- Carrying an offensive weapon
- Arson

The School will consider police involvement for any of the above offences.

These instances are not exhaustive but indicate the severity of such offences and the fact that such behaviour seriously affects the discipline and well-being of the School.

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

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

- Ensure appropriate investigations have been carried out.
- Consider all the evidence available to support the allegations taking into account the behaviour
- Equal Opportunity and Race Equality Policies
- Allow the pupil to give her/his version of events
- Check whether the incident may have been provoked for example by bullying or by racial or sexual harassment.

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

### **Exercise of discretion**

In reaching a decision, the Headteacher will always look at each case on its own merits. Therefore, a tariff system, fixing a standard penalty for a particular action, is both unfair and inappropriate.

In considering whether permanent exclusion is the most appropriate sanction, the Headteacher will consider:

1. The gravity of the incident, or series of incidents, and whether it constitutes a serious breach of the school's Behaviour Policy and;
2. The effect that the pupil remaining in the School would have on the education and welfare of other pupils and staff. Nonetheless, in the case of a pupil found in possession of an offensive weapon, whether there is an intention to use it or not, it is the school's usual policy in this particularly serious matter to issue a permanent exclusion.

In line with its statutory duty, these same two tests of appropriateness will form the basis of the deliberations of the Governors' Exclusion Panel, when it meets to consider the Headteacher's decision to exclude. This Panel will require the Headteacher to: explain the reasons for the decision and will look at appropriate evidence, such as the pupil's school



record, witness statements and the strategies used by the school to support the pupil prior to exclusion.

### **Alternatives to Exclusion**

All other avenues will be explored before exclusion is considered. This will include the advice of outside agencies. The threat of a permanent exclusion will never be used as the means to coerce parents to move their child to another school. The school will work with the LA and other outside agencies including organisations that offer alternative provision to prevent exclusion including positive referrals and managed moves.

### **Lunchtime Exclusion**

Pupils whose behaviour at lunchtime is disruptive may be excluded from the School premises for the duration of the lunchtime period. This will be treated as ½ day fixed term exclusion and parents will have the same right to gain information and to appeal.

### **Behaviour Outside School**

Pupils' behaviour outside school on school "business", for example school trips or away school sports' fixtures is subject to the school's Behaviour Policy. Bad behaviour in these circumstances will be dealt with as if it had taken place in school. For behaviour outside school but not on school business; this policy will still have effect if there is a clear link between that behaviour and maintaining good behaviour and discipline among the pupil body as a whole. If pupils' behaviour in the immediate vicinity of the school or on a journey to and from school is poor and meets the school criteria for exclusion then the Headteacher may decide to exclude.

### **Drug Related Exclusions**

In making a decision on whether or not to exclude for a drug-related offence the Headteacher will have regard to the school's published policy on drugs and will also seek advice from the LA's Drugs Education Advisor. The decision will depend on the precise circumstances of the case and the evidence available. In some cases fixed term exclusion will be more appropriate than permanent exclusion. The Headteacher will make a judgment set against the criteria in the school's Drugs Policy.

## **6. 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.



## **7. Roles and responsibilities**

### **7.1 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 Board and LA once a term.

### 7.2 The Governing Board

Responsibilities regarding exclusions are delegated to the Exclusions Panel consisting of at least 3 governors. The Exclusions Panel has a duty to consider the reinstatement of an excluded pupil (see section 8). The exclusion panel may be made up with governors from other DEEP schools to make sure that the Exclusions Panel can be as impartial as possible. Within 14 days of receipt of a request, the Governing Board will provide the secretary of state and the LA with information about any exclusions in the last 12 months. For a fixed-period exclusion of more than 5 school days, the Governing Board will arrange suitable full-time education for the pupil. This provision will begin no later than the sixth day of the exclusion.

### 7.3 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.

## 8. Considering the reinstatement of a pupil

The Governing Board's Exclusion Panel 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 Exclusion Panel 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 Exclusion Panel 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 Exclusion Panel 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 Exclusion Panel 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 by an impartial clerk, and a record of evidence considered kept. The outcome will also be recorded on the pupil's educational record. The Exclusion Panel 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 Exclusion Panel 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 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 LA 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 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

### **9. An independent review**

If parents apply for an independent review, the LA will arrange for an independent panel to review the decision of the Governing Board not to reinstate a permanently excluded pupil. Applications for an independent review must be made within 15 school days of notice being given to the parents by the Exclusion Panel of its decision to not reinstate a pupil.

A panel of 3 or 5 members will be constituted with representatives from each of the categories below. Where a 5-member panel is constituted, 2 members will come from the school governors category and 2 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



## Rodings Primary School Policy for Exclusion

- 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 LA, 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 LA, 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 LA, 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

A clerk will be appointed to the panel.

The independent panel will decide one of the following:

- Uphold the Governing Board's decision
- Recommend that the Governing Board reconsiders reinstatement
- Quash the Governing Board's decision and direct that they reconsider reinstatement (only when the decision is judged to be flawed)

The panel's decision can be decided by a majority vote. In the case of a tied decision, the chair has the casting vote.

### 10. School registers

A pupil's name will be removed from the school admissions register if:

- 15 school days have passed since the parents were notified of the exclusion panel's decision to not reinstate the pupil and no application has been made for an independent review panel, or
- The parents have stated in writing that they will not be applying for an independent review panel

Where an application for an independent review has been made, the Governing Board will wait until that review has concluded before removing a pupil's name from the register.

Where alternative provision has been made for an excluded pupil and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.

Where excluded pupils are not attending alternative provision, code E (absent) will be used.



### **11. Returning from a fixed-term exclusion**

Following a fixed-term exclusion, a reintegration 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
- Putting a pupil 'on report'

### **12. 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 by the Governing Board annually.

### **13. Links with other policies**

This exclusions policy is linked to our

- Behaviour policy
- SEND policy and information report



**Appendix 1**

**Timescales for exclusions**

Summarised from the guidance

Number	Action Taken	Number of school days
1	The Headteacher should, as far as possible, establish the facts of the behaviour in question	On the day of the incident or as soon as possible afterwards
2	Notify the parent and send letter	Same day as decision to exclude
3	If exclusion is for more than 5 days, or permanent, Headteacher notifies the discipline committee and LA	Immediately
4	Parents should indicate whether or not they intend to make representations to the discipline committee	Not specified in guidance
5	Response by the Headteacher to the parent's request to access the child's curricular or education records	As soon as possible but within 15 school days
6	The clerk to the discipline committee convenes a meeting to consider whether or not to uphold the Headteacher teacher's decision for all exclusions over 15 days and at parents request for 15 days or under. As far as possible this should be at a time and place convenient to all parties. Written statements should be circulated in advance of the meeting.	For an exclusion of between 1 and 15 days the committee must meet between the 6 <sup>th</sup> and 50 <sup>th</sup> day (only if the parent requests a meeting)  For an exclusion over 15 days the committee must meet between the 6 <sup>th</sup> and 15 <sup>th</sup> day.
7	The discipline committee should notify the parent and the LA of their decision and their reason in writing	Within one school day
8	Parent's notification of the appeal against the disciplinary committee's decision to uphold a permanent exclusion	Within 15 days of the clerk's notification of the decision



## Rodings Primary School Policy for Exclusion

9	Independent Review Panel meets to consider the parent's appeal	Within 15 days from the parent's receipt of the notice. (In exceptional circumstances the LA has the discretion to extend the period)
10	Clerk to the Independent Review Panel sends out notification of the decision to all parties	By the end of the second school day after the appeal hearing.



## Appendix 2

### Aide Memoire for decision making

#### **Some points for members of a Governing Board to consider when reviewing the Headteacher Teacher's decision to exclude a pupil;**

- Did the pupil, on the balance of probabilities, commit the breach of the school's discipline policy of which they are accused?
- Would allowing the pupil to remain in school seriously harm the education or welfare of others in the School?
- Did the School evidence that all strategies available had been exhausted prior to the decision to exclude?
- Did the Headteacher Teacher have any alternative to exclusion?
- Is the Headteacher Teacher's decision in line with the school's published discipline policy?
- Was the decision to exclude based on a serious one off incident, or for an accumulation of offences?
- Is the pupil defined as having Special Educational Needs? Has the pupil received the support as set out in the Statutory Assessment? Has the pupil had a recent annual review? Were the Statutory Assessment Service consulted prior to the decision to exclude?
- Has the pupil been identified as having a disability? If so, has the pupil been treated less favourably than other pupils and have reasonable adjustments been made in regard to their disability?
- Was the incident provoked (for example by bullying, racial or sexual harassment)?
- Are you satisfied that a full and appropriate investigation was undertaken? Has the School interviewed all parties and have you cross referenced the witness statements?
- Did the School apply the correct procedures when excluding the pupil?
- Was the pupil given the opportunity to give their version of events?



### Glossary of Terms and Abbreviations

<b>Alternative Provision</b>	<b>Either begin educated at home with work provided by the school or Pupil Referral Unit or receiving therapy or education at a different setting.</b>
<b>Behaviour Contract/Report</b>	<b>A document agreed by the school, child and parents outlining the behaviour expectations on returning to school.</b>
<b>DEEP</b>	<b>Dunmow Excellence in Education Partnership</b>
<b>DfE</b>	<b>Department of Education</b>
<b>Exclusion Panel</b>	<b>A group of governors who will review the exclusion process and make any decisions relating to the exclusion.</b>
<b>EPHA</b>	<b>Essex Primary Heads Association</b>
<b>Fixed Term Exclusion also none as fixed period</b>	<b>Initially Maximum of 5 days but can be extended under agreed circumstances.</b>
<b>LA</b>	<b>Local Authority</b>
<b>Permanent Exclusion</b>	<b>Will be removed from school roll</b>
<b>SEND</b>	<b>Special educational needs or disability</b>