



# **Exclusions and Appeals Policy**

River Bank Primary School

2020

## Introduction

This policy is supported by the School Discipline (Student Exclusions and Reviews) (England) Regulations 2012, accompanied by new statutory guidance on school exclusions issued by the Department for Education 2012 and in the latest update issued in April 2016. It sets out the process by which exclusions and appeals are managed by River Bank Primary School.

This policy should be read in conjunction with and with reference to: behaviour management policy, anti-bullying policy, special educational needs and disability (SEND) policy

## Aims

Good discipline at River Bank Primary School is essential to ensure that all pupils can benefit from the opportunities provided and fulfil their potential. We will endeavour to avoid permanent exclusion wherever possible and use only as a last resort, in response to a serious breach, or persistent breaches, of the school's behaviour policy; and where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school. We will also ensure that any decisions to exclude are not made in a way which unfairly and disproportionately affects particular ethnic groups, pupils with disabilities or those with SEN.

## Definition

Exclusion, within this policy may be one of three types:

- Internal Exclusion (when a pupil is excluded from normal lessons, but remains within the school)
- Fixed-Term Exclusion (when a pupil is excluded from school) for a fixed number of days determined by the headteacher, or in their absence, the deputy head teacher.
- Permanent Exclusion (where steps are taken to permanently remove the pupil from the school)

## Rationale

Exclusion is an extreme sanction and will be avoided wherever possible, however the decision to recommend a pupil for a fixed-term or permanent exclusion will be taken in the following circumstances:

- in response to a serious breach of the school's behaviour policy
- in response to persistent breaches of the school's behaviour policy
- if allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

## The Law

Only the headteacher, or deputy headteacher in their absence, 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.

The Headteacher may withdraw an exclusion that has not been reviewed by the governing body.

Any decision of the school, including exclusion, must be made in line with the principles of administrative law, i.e. that it is: lawful (with respect to the legislation relating directly to exclusions and a school's wider legal duties, including the European Convention of Human Rights); rational; reasonable; fair; and proportionate.

Headteachers, or deputy headteachers in their absence, must take account of their legal duty of care when sending a pupil home following an exclusion.

When establishing the facts in relation to an exclusion decision the headteacher or deputy headteacher in their absence, 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'.

### **Responsibility for Exclusion**

Only the headteacher (or, in the absence of the head, the deputy head who is acting in that role) can exclude a pupil.

### **Causes for Exclusion**

Exclusion, whether internal, 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:

- actions which put the pupil or others in danger
- verbal abuse to staff and others
- verbal abuse to pupils
- physical abuse to/attack on staff
- physical abuse to/attack on pupils
- indecent behaviour
- damage to property
- possession, misuse or supplying of illegal drugs
- possession, misuse or supplying of of other substances
- theft
- serious actual or threatened violence against another pupil or a member of staff
- sexual abuse or assault
- carrying an offensive weapon
- arson
- unacceptable behaviour which has previously been reported and for which school sanctions and other interventions have not been successful in modifying the pupil's behaviour

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

## Exclusion procedures

### Internal Exclusion

An internal exclusion will be implemented for a misdemeanour of sufficient seriousness as to warrant a pupil being removed from lessons, but not so serious as to warrant removal from school. As stated above, all efforts will be made to keep the pupil in school, so as to support his/her education and it will only be in the most severe circumstances (or a repeat of earlier offences) that will lead to fixed-term or permanent exclusions.

Pupils internally isolated are set work by class teachers and are not allowed to take their break or lunchtime with other pupils, but will be given a separate and comparable break and lunchtime.

Parents/carers will be informed and invited into school for a meeting with a member of the senior leadership team where there is a concern about a pupil's risk of exclusion. The specific concerns will be shared and support plans developed in collaboration with the parent/carer. The protocols and procedures for exclusions will be shared with parents/carers at this stage.

### Fixed-Term Exclusion

A fixed term exclusion is of short duration (usually between one and five days) and may be necessary if a pupil commits an offence which is considered so serious, that it would not be appropriate for an internal exclusion. In the case of fixed-term exclusions, the Department for Education allows the headteacher to exclude a pupil for one or more fixed periods not exceeding 45 school days in any one school year.

Pupils on fixed term exclusion will be forbidden from attending school, or being in the vicinity of school for the term of their exclusion. Under current legislation, parents/carers are obliged to take responsibility for their child if s/he is excluded and ensure that they are not in a public place without good reason during school hours within the first five school days of any exclusion. If they do not, the school or local authority may issue a penalty sanction.

Parents/carers must also ensure that their child attends the suitable full time education provided by the governing body from the sixth day of exclusion. For example, alternative provision.

The school will send work home for pupils who are excluded, which will be reviewed when the pupil returns.

The school will inform parents immediately by phone call when the decision has been taken to issue a fixed term exclusion for their son/daughter. This will be followed, subsequently by a letter in which the terms of the exclusion are set out, together with the time and date of the re-admission meeting. Parents/Carers are also informed that they have a right to make an appeal to the headteacher if they wish to challenge the terms of the exclusion.

## Permanent Exclusion

The decision to exclude a pupil permanently is a serious one and will never be taken lightly. In doing so, we recognise that a permanent exclusion may have a serious impact upon a pupil's life chances. In addition, permanent exclusion will not be sought, unless there is an immediate threat to the safety of others in the school or the pupil concerned.

There are two main types of situation in which permanent exclusion may be considered.

1. A final, formal step in a concerted process for dealing with disciplinary offences following the use of a wide range of other strategies. 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 or repeated possession and/or use of an illegal drug on School premises.
2. 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 student or a member of staff
  - Sexual abuse or assault
  - Supplying an illegal drug
  - Carrying an offensive weapon\*
  - Arson

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

*\* Offensive weapons are defined in the Prevention of Crime Act 1953 as "any article made or adapted for causing injury to the person; or intended by the person having it with him for such use by him."*

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.

Before deciding whether to exclude a pupil either permanently or for a fixed period the headteacher will ensure that:

- Appropriate investigations have been carried out.
- All evidence available to support the allegations have been collated, taking into account the school's Behaviour and Equality Policies.
- The pupil has been allowed to give her/his version of events.
- There is no evidence which may indicate that 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 may be the outcome.

## Exercise of discretion

In reaching a decision on temporary or permanent exclusion, the headteacher will always look at each case on its own merits, in conjunction with any previous incidents. 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:

- The gravity of the incident, or series of incidents, and whether it constitutes a serious breach of the behaviour policy
- 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 and possibly involve the police.

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 permanently exclude. This committee 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 permanent exclusion.

The school will inform parents immediately by phone call when the decision has been taken to issue a fixed term exclusion for a pupil. This will be followed, subsequently by a letter in which the terms of the exclusion are set out. Parents/carers are also informed of their rights regarding an appeal of the terms of the exclusion.

## SEN Students and Permanent Exclusion

Whether or not the school recognises that a pupil has special educational needs (SEN), all parents have the right to request the presence of a SEN expert at an independent review panel. The SEN expert's role is to provide impartial advice to the panel about how SEN could be relevant to the exclusion; for example, whether the school acted reasonably in relation to its legal duties when excluding the pupil. An IRP will meet if an appeal is made following the governors' decision to uphold a permanent exclusion.

## Appealing a Permanent Exclusion

Where parents dispute the decision of a governing body not to reinstate a permanently excluded pupil, they can ask for this decision to be reviewed by an independent review panel (IRP). Where there is an allegation of discrimination (under the Equality Act 2010) in relation to a fixed-period or permanent exclusion, parents can also make a claim to the First-tier Tribunal (for disability discrimination).

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.

The panel may only quash the decision of the governing body if the school has acted "illegally, irrationally or where there are significant flaws in procedure".

- Illegally – did the headteacher and/or governing body act outside the scope of their legal powers in taking the decision to exclude
- Irrationally – was the decision of the governing body not to reinstate the student so unreasonable that it was not one a sensible person could have made?
- Procedural impropriety – was the process of exclusion and the governing body's consideration so unfair or flawed that justice was clearly not done?

If the governing body does not subsequently offer to reinstate a pupil, the panel will be expected to order that the school makes an additional payment of £4,000. This payment will go to the local authority towards the costs of providing alternative provision.

### **Alternatives to Permanent Exclusion**

Alternative strategies to permanent exclusion are always used if possible and the threat of a permanent exclusion will never be used as the means to coerce parents to move their child to another school.

### **Behaviour outside school**

Pupil behaviour outside school on school "business" for example educational visits and travelling to and from school 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. Serious infringements of the school's behaviour policy that occur 'outside of' the school may lead to a fixed term or permanent exclusion.

### **Review of Exclusions**

The senior leadership team review all permanent exclusions from the school and all fixed term exclusions that would lead to a pupil being excluded for over 15 days in a school term.

The senior leadership team review fixed term exclusions which would lead to a pupil being excluded for over five days but not over 15 days in a school term where a parent/carer has expressed a wish to make representations.

### **Re-admission Meetings and Re-integration**

Following a fixed-term exclusion, parents/carers are invited into school to attend a re-admission meeting. Under current legislation, parents/carers are expected to attend a reintegration interview following any fixed period exclusion of more than five days. Failure to attend may make it more likely that the court will impose a parenting order if the school or local authority apply for one.

At the meeting, the pupils will be set specific goals in order to help him/her avoid the behaviour that led to exclusion. It is also school practice to place a pupil returning to school following exclusion on a two week report to monitor behaviour and work.

If a pupil has served a fixed term exclusion of greater than five days or an accumulation of exclusions exceed five days, a pastoral support plan will be drawn up. This will be agreed with the school, pupil and parents/carers.

### **Dissemination of the Policy**

A copy of this Policy is available to download from the school web site.