



Exclusion Policy

Contents

Statement of intent

1. [Legal framework](#)
2. [Grounds for exclusion](#)
3. [The headteacher's power to exclude](#)
4. [Factors to consider when excluding a pupil](#)
5. [Duty to inform parents](#)
6. [Duty to inform the governing board and LA](#)
7. [Arranging education for excluded pupils](#)
8. [Considering exclusions](#)
9. [Reaching a decision](#)
10. [Notification of considered exclusions](#)
11. [Removing permanently excluded pupils from the school register](#)
12. [Independent review panel](#)
13. [Appointing a SEND expert](#)
14. [The role of a SEND expert](#)
15. [The duties of the independent review panel members in the conduct of an independent review panel](#)
16. [Reconsidering reinstatement following a review](#)
17. [Criminal investigations](#)
18. [Training requirements](#)
19. [Monitoring and review](#)

Appendix

- a) [Reviewing the Headteacher's Exclusion Decision](#)

Statement of intent

At Chaigeley School, we understand that good behaviour and discipline is essential for promoting a high quality of 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 Behavioural 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 should only be used as a means of last resort.

The school has created this policy to clearly define the legal responsibilities of the Principal and governing body when responding to pupil exclusions, in order to ensure that they are dealt with both fairly and lawfully, and in line with DfE statutory guidance.

This policy also aims to secure a pupil's right to an education despite having been excluded, by ensuring that appropriate arrangements are in place.

1. Legal framework

1.1. This policy has due regard to the related statutory legislation, including, but not limited to, the following:

- The Education Act 2002 (as amended by The Education Act 2011)
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- The Education and Inspections Act 2006
- The Education Act 1996
- The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007 (as amended 2014)
- The European Convention on Human Rights (ECHR)
- The Equality Act 2010

1.2. This policy also has due regard to statutory and non-statutory guidance, including, but not limited to, the following:

- DfE (2017) 'Exclusion from maintained schools, academies and pupil referral units in England'
- DfE (2016) 'Behaviour and discipline in schools'
- DfE (2015) 'Special educational needs and disability code of practice: 0 to 25 years'

1.3. This policy will be implemented in conjunction with the following school policies and procedures:

- Behavioural Policy
- Anti-Bullying Policy

2. Grounds for exclusion

2.1. The school will only exclude a pupil where it is absolutely necessary, and where all other possible disciplinary sanctions, as detailed in the school's Behavioural Policy, have failed to be successful.

2.2. The following examples of behaviour may underline the school's decision to exclude a pupil:

- Any incident which poses a risk to other pupils or members of staff, e.g. bringing a weapon onto the premises
- Any incidents which breach the law
- Persistent and severe bullying
- Verbal and physical abuse
- Constant disruption
- A single, serious and major incident, e.g. serious assault on another individual leading to injury

- 2.3. Pupils can be excluded on a fixed-period basis, i.e. up to 45 school days within a year, or permanently. Similarly, pupils can be permanently excluded following a fixed-period exclusion, where further evidence is presented.
- 2.4. In all cases, the Principal will decide which exclusion period a pupil will be subject to, depending on what the circumstances warrant.

3. The Principal's power to exclude

- 3.1. The Principal / Head of Education has the power to exclude a pupil from the school for a fixed period. Only the Principal can exclude on a permanent basis. All exclusions will only be issued on disciplinary grounds.
- 3.2. The Principal is able to consider a pupil's disruptive behaviour outside of the school premises as grounds for exclusion. Any decision made to exclude a pupil will be lawful, proportionate and fair, with respect to legislation relating directly to exclusions and the school's wider legal duties, including the ECHR.
- 3.3. All exclusions will be formally recorded.
- 3.4. When sending a pupil home following any exclusion, the Principal / appropriate person will ensure that they exercise their duty of care at all times and will always inform the parents.
- 3.5. At all times, the Principal will take into account their legal duties under the Equality Act 2010 and the special educational needs and disability code of practice: 0 to 25 years, ensuring that they do not discriminate on any grounds, e.g. race, sex, disability, and will not increase the severity of a pupil's exclusion on these grounds.
- 3.6. The Principal will not use the threat of exclusion as a means of instructing parents to remove their child from the premises.

4. Factors to consider when excluding a pupil

- 4.1. When considering the exclusion of a pupil, the Principal will:
 - Allow the pupil the opportunity to present their case.
 - Take into account any contributing factors that are identified after a case of poor behaviour has occurred, e.g. if the pupil's wellbeing has been compromised, or they have been subjected to bullying.
 - Take into consideration whether the pupil has received multiple exclusions or is approaching the legal limit of 45 excluded days per school year, and whether exclusion is serving as an effective sanction.
 - Consider early intervention to address underlying causes of disruptive behaviour, including liaising with external agencies, to assess pupils who demonstrate consistently poor behaviour.
- 4.2. The Principal will consider what extra support may be available for vulnerable pupil groups whose exclusion rates are higher, in order to reduce their risk of exclusion, including the following:

- LAC
 - Pupils eligible for free school meals
 - Pupils with special educational needs and disabilities (SEND)
 - Certain ethnic groups
- 4.3. In light of the above, the Principal will consider avoiding permanently excluding LAC pupils or pupils with an education, health and care (EHC) plan. For other vulnerable groups, additional support will be considered.
- 4.4. Where any member of staff has concerns about vulnerable pupil groups and their behaviour, they will report this to the Principal who will consider what extra support or alternative placement is required.
- 4.5. The Principal will work in conjunction with the parents of any pupil with additional needs, in order to establish the most effective support mechanisms.

5. Duty to inform parents

- 5.1. Following the Principal's decision to exclude a pupil, they will immediately inform, in person or by telephone, the parents of the period of the exclusion and the reasons behind this.
- 5.2. The Principal will inform the parents in writing (electronically if written permission has been received from the parents for notices to be sent this way) of the following:
- The reason(s) for the exclusion
 - The length of the fixed-period exclusion or, for a permanent exclusion, the fact that it is permanent
 - The arrangements that have been made for the pupil to continue their education prior to the organisation of any alternative provision, or the pupil's return to school
 - Relevant sources of free, impartial information
- 5.3. Where the Principal has arranged alternative provision, they will also inform the parents of the following:
- The start and end date for any provision of full-time education
 - The address at which the provision will take place
 - Any information necessary for the pupil to identify the person they should report to on the starting date
- 5.4. Where the Principal is unable to provide information on alternative provision by the end of the afternoon session, they will provide the information in a subsequent written notice without further delay, and within 48 hours of the pupil beginning the provision.
- 5.5. If the alternative provision is due to begin before the sixth day of exclusion, the Principal is able to give less than 48 hours of notice, with parental consent.

- 5.6. If the Principal has decided to exclude the pupil for a further fixed period following their original exclusion, or to permanently exclude them, they will notify the parents without delay and issue a new exclusion notice to parents.

6. Duty to inform the governing board and LA

- 6.1. The Principal will inform the governing board and LA, without delay, of the following:
- Any permanent exclusions (including where a fixed-period exclusion is followed by a decision to permanently exclude the pupil)
 - Any exclusions which would result in the pupil being excluded for more than five school days in a term
 - Any exclusions which would result in the pupil being absent from an examination or national curriculum test

7. Arranging education for excluded pupils

- 7.1. For any fixed-period exclusions of more than five school days, the school will arrange suitable alternative education for the pupil, which will begin no later than the sixth day of exclusion.
- 7.2. Where a pupil receives consecutive fixed-period exclusions, these will be regarded as cumulative, and alternative education will still have to be provided from the sixth day of exclusion.
- 7.3. For permanent exclusions, alternative education will also be provided for the pupil from the sixth day of exclusion.
- 7.4. The school will not arrange alternative education for any pupil who is currently in their final year of compulsory education, and who does not have any further public examinations to sit.
- 7.5. The school is aware that it is beneficial to excluded pupils to begin their alternative education arrangements before the sixth day of exclusion. The school will always attempt to arrange alternative provision before the sixth day of exclusion.
- 7.6. Where it is not possible to arrange alternative provision during the first five days of exclusion, the school will ensure that they take reasonable steps to set and mark work for the excluded pupil.
- 7.7. If a pupil with SEND has been excluded, the school will ensure that:
- Any alternative provision is arranged in consultation with the pupil's parents, who are able to request preferences.
 - When identifying alternative provision, any EHC plan is reviewed/the pupil's needs are reassessed, also in consultation with the pupil's parents.

8. Considering exclusions

- 8.1. The school will consider any representations made by parents in regard to exclusion.
- 8.2. Any meeting to consider reinstatement of a pupil will be arranged at a date and time convenient for all parties, and in compliance with any statutory time limits.
- 8.3. The school will consider the reinstatement of an excluded pupil, where:
 - The exclusion is permanent.
 - The exclusion is fixed-period, and would bring the pupil's total number of excluded school days to more than 15 in any given term.
 - The exclusion would result in the pupil missing a public examination.
- 8.4. In the case of a fixed-period exclusion where the pupil's total number of excluded days is more than five but less than 15 school days within a term, if requested by the parents, the school will consider exclusions within 50 school days of receiving notification.
- 8.5. In the case of a fixed period exclusion, where the pupil's total number of excluded school days does not amount to more than five, in the absence of any such representations, the school is not required to meet and cannot direct the reinstatement of the pupil.
- 8.6. When considering the reinstatement of an excluded pupil, the school will:
 - Only discuss the exclusion with the parties present at the meeting.
 - Ask for any written evidence prior to the meeting.
 - Circulate any written evidence and information to all parties, at least five school days in advance of the meeting.
 - Allow pupils and parents to be accompanied by a person of their choice at the meeting.
 - Consider what reasonable adjustments need to be made to support the attendance and contribution of parties at the meeting.
 - Identify the steps needed to enable and encourage the excluded pupil to attend the meeting and speak on their behalf, or how they may contribute personal views by other means if attendance is not possible.
 - Consider the interests and circumstances of the excluded pupil, including the grounds for exclusion.

9. Reaching a decision

- 9.1. After considering exclusions, the school will either:
 - Decline to reinstate the pupil.
 - Direct the reinstatement of the pupil immediately, or on a specified date.

- 9.2. If reinstatement would make no practical difference, e.g. if the pupil has already returned to school following a fixed-period exclusion or the parents make clear they do not want their child reinstated, the school will still consider whether the pupil should be officially reinstated, and whether the Principal's decision to exclude the pupil was fair, lawful and proportionate, based on the evidence presented.
- 9.3. The school will apply the civil standard of proof when responding to the facts relating to an exclusion, i.e. that 'on the balance of probabilities' it is more likely than not that the facts are true.
- 9.4. In order to reach a decision, the school will:
- Identify the steps they intend to take to ensure that all parties involved will have the opportunity to participate and present their views.
 - Ensure that minutes are taken of the meeting as a record of the evidence that was considered.
 - Ask all parties to withdraw from the meeting before concluding their decision.
 - Consider whether the exclusion of the pupil was lawful, proportionate and fair, taking into account the Principal's legal duties and any evidence that was presented to the governing board in relation to the decision to exclude.
 - Record the outcome of the decision on the pupil's educational records, along with copies, which will be kept for at least six months.
 - Make a note of their findings, where they have considered an exclusion but cannot reinstate the pupil.

10. Notification of considered exclusions

- 10.1. The school will notify the parents of the excluded pupil, the Principal and the LA of their decision following the consideration of an exclusion, in writing and without delay.
- 10.2. In the case of a permanent exclusion, where the governing board decides not to reinstate the pupil, they will notify the parents:
- That it is permanent, and their right for it to be reviewed by an independent review panel.
 - Of the date by which an application for review must be made.
 - Of the name and address of whom the review application should be submitted to.
 - That any application should set out the grounds on which it is being made and that, where appropriate, this should include reference to how a pupil's SEND are considered relevant to the exclusion.
 - That, regardless of whether a pupil has been identified as having SEND, the parents have a right to require the school to ensure a SEND expert attends the review.

- Of the role of the SEND expert that will attend the review, and that the parents will not be charged for this.
 - That they are required to make it clear if they wish for a SEND expert to attend the review.
 - That they may appoint someone at their own expense to make representations to the panel.
- 10.3. The school will also notify parents that, if they believe an exclusion has been issued as a result of discrimination, then they are required to make a claim under the Equality Act 2010 to the First-tier Tribunal (SEND), and that this should be within six months of when the discrimination allegedly took place.
- 10.4. After any conclusion, the school will notify the parents, and all other parties involved, of the decision that was made and the reasoning for this, in sufficient detail.

11. Removing permanently excluded pupils from the school register

- 11.1. The Principal will remove pupils from the school register if:
- 15 school days have passed since the parents were notified of the governing board's decision not to reinstate the pupil and no application for an independent panel review has been received.
 - The parents have stated in writing that they will not be applying for an independent panel review following a permanent exclusion.
- 11.2. If an application for an independent panel review has been made within 15 school days, the Principal will wait until the review has been determined, or abandoned, and until the governing board has completed any reconsideration that the panel recommended or directed it to carry out, before removing the pupil from the school register.
- 11.3. If a pupil's name is to be removed from the register, the Principal will make a return to the LA, which will include:
- All the particulars which were entered in the register.
 - The address of any parent with whom the pupil normally resides.
 - The grounds upon which the pupil's name is to be removed from the register.
- 11.4. Any return to the LA will be made as soon as the grounds for removal are met and no later than the date in which the pupil's name was removed.
- 11.5. If a pupil's name has been removed from the register and a discrimination claim is made, the pupil may be reinstated following a decision made by the First-tier Tribunal (SEND) or County Court.
- 11.6. Whilst a pupil's name remains on the admissions register, the appropriate code will be used to mark the pupil's attendance:

- Code B: Education off-site
- Code D: Dual registration
- Code E: Absent and not attending alternative provision

12. Independent review panel

- 12.1. The LA will review the school's decision not to reinstate a permanently excluded pupil, if the parents submit their application for this within the required time frame.
- 12.2. Parents are required to submit their applications within:
 - 15 school days of the school's notification of their decision.
 - 15 school days of the final determination of a discriminatory claim made under the Equality Act 2010.
- 12.3. Any application made outside of this timeframe will not be reviewed.
- 12.4. Parents are able to request an independent panel review even if they did not make a case to, or attend, the school's initial consideration of the exclusion.
- 12.5. Chaigeley school will adhere to all statutory guidelines when conducting an independent panel review, as outlined in the DfE's statutory guidance document 'Exclusion from maintained schools, academies and pupil referral units in England' 2017.

13. Appointing a SEND expert

- 13.1. If requested by parents in their application for an independent review panel, the school will appoint a SEND expert to attend the panel and cover the associated costs of this appointment.
- 13.2. The school will make arrangements to indemnify the SEND expert against any legal costs and expenses reasonably incurred as a result of any decisions or actions connected to the review and which are taken in good faith.
- 13.3. Parents have a right to request the attendance of a SEND expert at a review, regardless of whether the school recognises that their child has SEND.
- 13.4. The SEND expert's role is set out in [section 14](#) of this policy.
- 13.5. Individuals will not serve as a SEND expert if they have, or at any time have had, any connection with the school parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their ability to act impartially; however, an individual is not taken to have such a connection solely because they are an employee of the school
- 13.6. The SEND expert will be a professional with first-hand experience of the assessment and support of SEND, as well as an understanding of the legal

requirements on schools in relation to SEND. Examples of suitable individuals might include educational psychologists; specialist SEND teachers; special educational needs coordinators (SENCOs); and behaviour support teachers.

- 13.7. Recently retired individuals are not precluded from fulfilling this role; however, the school will, during interview, assess the knowledge of such individuals in order to ensure that they have a good understanding of current practice and the legal requirements on schools in relation to SEND.
- 13.8. Whilst individuals are not automatically taken to be partial simply because they are an employee of, or contracted by, the school they will not have had any previous involvement in the assessment or support of SEND for the excluded pupil, or siblings of the excluded pupil. The school will request that prospective SEND experts declare any conflict of interest at the earliest opportunity.
- 13.9. The final decision on the appointment of an SEND expert is for the school to make, but it will take reasonable steps to ensure that parents have confidence in the impartiality and capability of the SEND expert.

14. The role of a SEND expert

- 14.1. The SEND expert's role is analogous to an expert witness, providing (orally, in writing or both) impartial advice to the panel on how SEND might be relevant to the exclusion. The SEND expert will base their advice on the evidence provided to the panel. The SEND expert's role does not include making an assessment of the pupil's SEND.
- 14.2. The focus of the SEND expert's advice will be on whether the school's policies which relate to SEND, or the application of these policies in relation to the excluded pupil, were legal, reasonable and procedurally fair. If the SEND expert believes that this was not the case, they will, where possible, advise the panel on the possible contribution that this could have made to the circumstances of the pupil's exclusion.
- 14.3. Where the school does not recognise that a pupil has SEND, the SEND expert will advise the panel on whether they believe the school acted in a legal, reasonable and procedurally fair way with respect to the identification of any SEND that the pupil may potentially have, and any contribution that this could have made to the circumstances of the pupil's exclusion.
- 14.4. The SEND expert will not criticise a school's policies or actions simply because they believe a different approach should have been followed or because another school might have taken a different approach.

15. The duties of independent review panel members in the conduct of a review panel

- 15.1. The role of the panel is to review the schools decision not to reinstate a permanently excluded pupil. In reviewing the decision, the panel will 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.

15.2. The panel will 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'.

15.3. Following the review, the panel will do one of the following:

- Uphold the decision.
- Recommend that the school reconsiders reinstatement.
- Quash the decision and direct that the governing board reconsiders reinstatement.

15.4. The panel's decision does not have to be unanimous and can be decided by majority vote. It is binding on the pupil, parents, school, Principal and the LA.

16. Reconsidering reinstatement following a review

16.1. Where the independent review panel instructs the school to reconsider their decision not to reinstate a pupil, they will do so within 10 school days of being given notice of the review panel's decision.

16.2. Following reconsideration, the school will notify the parents and the LA of their reconsidered decision and the reasons for this.

17. Criminal investigations

17.1. The Principal will not postpone taking a decision to exclude a pupil due to a police investigation being underway, or any criminal proceedings that are in place.

17.2. The Principal will give particular consideration when deciding to exclude a pupil where evidence is limited by a police investigation, to ensure that any decision made is fair and reasonable.

17.3. If the governing board is required to consider the Principal's decision in these circumstances, they will not postpone the meeting and will make a decision based on the evidence available.

18. Training requirements

18.1. Training will cover:

- The requirements of the legislation, regulations and statutory guidance governing exclusions.
- The need for the panel to observe procedural fairness and the rules of natural justice.

- The role of the chair of a review panel.
- The role of the clerk to a review panel.
- The duties of the Principal, governing boards and the panel under the Equality Act 2010.
- The effect of section 6 of the Human Rights Act 1998 and the need to act in a manner compatible with human rights protected by that Act.

18.2. Clerks will also have an up-to-date understanding on developments in case law which are relevant to exclusion.

19. Monitoring and review

19.1. This policy will be reviewed on an annual basis by the Principal in conjunction with the governing board.

Committee: SPD

Date of review: June 2018

Next review date: June 2019

Reviewing the Headteacher's Exclusion Decision

