



Exclusions Policy and Procedure

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It is the policy of school in the Frays Academy Trust to try to deal with all behavioural issues in an active, positive way, employing a wide range of strategies, including those specifically designed to avoid such issues reaching the point of exclusion. (See Behaviour Policy).

Purpose of this policy

This policy is designed to briefly outline the school's approach to exclusions within the statutory framework as defined in the *The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012*. It outlines only where the school applies its own additional guidance and policies, which complement and reinforce the statutory guidance, for purposes of clarity in the day-to-day operation of the school.

Key Guidance and regulations:

- Exclusion from maintained schools, Academies and pupil referral units in England - A guide for those with legal responsibilities in relation to exclusion (DfE 2012)
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012

Principles

1) Exclusion is a sanction used by the school only in cases deemed as serious breaches of the School Behaviour Policy. A student may be at risk of exclusion from school for:

- Verbal or physical assault of a student or adult;
- Persistent and repetitive disruption of lessons and other students' learning;
- Extreme misbehaviour which is deemed outside the remit of the normal range of sanctions

All of these are defined as level 5 in the Behaviour Policy.

Types of Exclusion

There are two types of exclusion: Fixed Period and Permanent. Fixed period exclusions may not be for more than 45 days in any one year.

The Decision to Exclude

Exclusions will be used sparingly and only if there are serious breaches of the schools behaviour policy or civil law; or if allowing the pupil to remain in school would be seriously detrimental to the education or welfare of the pupil or others.

The Head of School holds responsibility for taking the decision to permanently exclude a pupil. However, in the absence of the Head of School, the Deputy or other senior teacher in charge may exclude a pupil for a fixed period.

In all cases, guidance must be sought from the Executive Headteacher.

Permanent exclusion is used as a last resort, when all other reasonable steps have been taken.

A pupil may, in extreme cases, be permanently excluded following a serious 'one off' breach of the school's behaviour policy. At schools in the Frays Academy Trust this could apply in the event of serious or threatened violence against a pupil or member of staff.

The decision to exclude a pupil must be lawful, reasonable and fair. Care is taken not to discriminate against pupils on the basis of protected characteristics, such as disability or race. Particular consideration is given to the fair treatment of pupils from groups who are vulnerable to exclusion.

Exclusion will not be used for minor offences or as a punishment for non-attendance. Where a pupil is excluded, steps will be taken to refer the pupil for support or to other relevant agencies.

Fixed Period exclusions may not exceed 45 days in any one year.

Persistent poor behaviour at lunchtime may result in a fixed period exclusion which covers the lunchtime break. This is subject to the normal rights of appeal. An exclusion may also take place if a pupil has been recently secluded for poor behaviour and this has had little or no impact.

Action Following Any Exclusion

Following any exclusion of any type or duration, the Head of School will:

- Inform the parents of the period and nature of the exclusion
- Give the reasons for the exclusion
- Advise the parents about rights of representation about the exclusion to the governing body and how these representations may be made

- Take account of his/her legal duty of care when sending a pupil home following an exclusion. 'Holding' arrangements until the pupil can be collected may be necessary.
- Make arrangements to provide suitable full time education from the sixth day onwards for pupils who have been given a fixed period exclusion lasting longer than five days. Once alternative provision has been arranged from the sixth day of the exclusion, the Head of School must by law inform the parents without delay of the start date, times and venue of the provision. This must be done no later than 48 hours before the alternative provision is to start.
- This information will be put in writing and will be sent by delivering a letter directly to the parents. The information provided to parents will be clear and free of unnecessary jargon.
- Where the excluded pupil is of compulsory school age, the school will also notify parents without delay and by the end of the afternoon session that for the first five days of an exclusion they are legally required to ensure that their child is not in a public place during school hours without reasonable justification and that they may be given a fixed penalty notice if they fail to do so.
- Parents must be informed where a fixed term exclusion has been extended or converted to a permanent exclusion. In such cases, the Head of School must write again to the parents explaining the reasons for the change and providing any additional information required.

Informing Other Bodies

For any exclusion of more than five days, be it in a single block of days, an accumulation of short exclusions of more than five days in any one term, or a permanent exclusion, the Head of School will also:

- notify the Local Authority (LA) giving the details of the exclusion and reasons for it
- notify the governing body giving the same details
- For a permanent exclusion, if the pupil lives outside the local authority in which the school is located, the Head of School must also inform the 'home authority' of the exclusion without delay.
- If any exclusion of even one day would cause a pupil to miss a public examination, the Head of School will inform the LA and the governing body.

The Head of School will make a termly report to the governing body on all exclusions, covering:

- the number and type of exclusions
- the reasons, gender, ethnicity and age of pupils and whether they were already on Individual Education Programmes or Pastoral Support Programmes
- repeated exclusions and the school's response to them
- links with parents
- truancy punctuality and attendance figures
- follow-up action, including what has subsequently happened to permanently excluded pupils

In addition, within 14 days of a request the school will report information about any exclusions within the last 12 months to the Education Secretary.

The Powers of the Governing Body

The governing body may review all the various categories of exclusions and will consider any representations made by the parents of the excluded pupil.

The governing body has no power to increase the severity of an exclusion. It can, however, uphold an exclusion or direct the pupil's reinstatement, either immediately or by a particular date.

However, in the case of fixed term exclusion that does not bring the pupil's total number of days of exclusion to more than five days in a term, the governing body cannot direct reinstatement and is not required to arrange a meeting with parents.

Discipline / Appeals Committee

The governing body has established a discipline/appeals committee to which it delegates its functions in respect of exclusions. (Hereafter referred to as 'the committee')

- The committee consists of at least three governors
- We ensure that all governors who serve on a discipline committee have received training to help them discharge their duties. A clerk to the discipline committee is also appointed.
- The committee can hear more than one appeal at a single sitting, so long as it complies with the statutory time limits related to each one.

- If one of the committee has knowledge of the pupil(s) involved in the exclusion, or of the incident that led to that exclusion that could affect his/her impartiality, he/she should step down.
- The chair has a casting vote in all cases where an even number of governors are considering the case

Convening an Appeal Meeting

Fixed Term Exclusions of 5-15 Days

If the parents of an excluded pupil makes written representations:

- The committee will consider them
- No statutory time limits apply to the consideration of such exclusions
- The committee has the discretion to agree to a meeting to discuss the exclusion, if this is requested by the parents
- In the case of a fixed term exclusion of more than 5 but not more than 15 school days, the committee, once having agreed to hold a meeting will hold that meeting between the 6th and the 50th school day after receiving notice of the exclusion from Head of School

Longer Fixed Term Exclusions and Permanent Exclusions

- Should the exclusion be for more than 15 days, or the total of fixed term exclusions be more than 15 days that term, or if the exclusion is a permanent one, the committee has a duty to convene a meeting to be held between the 5th and the 16th school day after the date of receipt of a notice to consider the exclusion.
- The parents and the Head of School will be invited to the meeting at a time and a place convenient to all the participants within the statutory time limit. The parent and the school may each be accompanied by a friend/advisor
- The committee will ask for any written statements including witness statements in advance of the meeting
- The clerk will circulate in advance of the meeting any written statements and a list of those who will be present at the meeting to all parties including the pupil if it is known that he/she will be present.

N.B. if a pupil has a number of lunchtime exclusions in any one term which add up to more than 5 school days, the rules above also apply.

Prior to the meeting, the governing body should:

- Not discuss the exclusion with any party outside the meeting.
- Identify the steps they will take to enable and encourage the excluded pupil to attend the meeting and speak on her own behalf.

Conduct of the Meeting

The meeting will be conducted as follows:

- No party to the review will be alone with the committee before, during or after the meeting
- The clerk makes all introductions and explains the reason for the meeting and the powers held by the committee either to uphold an exclusion or re-instate the pupil
- The school representative, usually the Head of School, will present the school's case.
- He/she can be questioned by all the other parties
- The parents will be asked to give their reasons for appealing.
- Very often it is the friend/advisor (who may well be a lawyer) who presents the parents' case.
- The parents and the pupil, if present, will still be asked if they have anything to add
- The other parties may question the parent and /or comment on what the family has said.
- The school sums up its case
- The parents or their representative sum up their case
- All the parties except the committee and the clerk leave

The committee will apply the 'balance of probabilities' standard of proof to the allegation of misconduct by the pupil. The more serious the allegation, of course the more convincing the substantiating evidence needs to be. This is not the same as requiring the criminal standard of 'beyond all reasonable doubt' to be applied.

The Decision- Fixed Term Exclusions

The clerk may help the committee in making its decision by reference to notes taken, by reminding them of statutory procedures where relevant and by wording the decision letters afterwards.

In reaching that decision, the committee should be mindful that the government does not allow that exclusion is justified for:

- A breach of uniform or appearance, except for persistent defiance

- Minor incidents such as failure to complete homework or to bring in money owed
- Poor academic work
- Lateness or truancy
- Misdeeds by a child who has special educational needs, except for very serious offences

In the case of fixed term exclusion, it is possible that the exclusion may already have expired and the pupil is back in school. In that case:

- The committee will decide whether the Head of School's decision to exclude the pupil was justified, based on the evidence
- The outcome should be added to the pupil's record for future reference

In rare cases, the parents may have already decided that they do not want their child reinstated whatever the committee's decision. Under those circumstances, the committee should simply record whether or not they believed that the Head of School's decision was justified. This view should be recorded and sent to the parents.

If the fixed term exclusion is still operative:

- The committee will decide whether or not the Head of School's decision to exclude was justified.
- They can either uphold the exclusion, which will have to run its course, or
- Direct the pupil's reinstatement either immediately or on a named date

The committee through the clerk must inform the parents and the Head of School of their decision in writing within one school day of the hearing, giving the reasons. They may not attach any conditions to any direction they have given the Head of School to reinstate the pupil.

The school has in place established procedures both for the return to school of a pupil whose fixed term exclusion has been upheld, and for the reinstatement of a pupil whose exclusion has been overturned. On their return, a pupil first has a meeting with the Head of School or another senior member of staff, responsible for the pupil's welfare, along with his/her parents.

Permanent Exclusion

We follow government guidance which sets out reasons why it would normally be inappropriate to reinstate a pupil. These are:

- Serious actual or threatened violence against another pupil or a member of staff
- Sexual abuse or assault
- Persistent and malicious disruptive behaviour, including open defiance or refusal to conform to school rules

When the committee decides to uphold a permanent exclusion, a letter to the parents will state:

- Their reason for the decision
- The right of the family to appeal to an Independent Review panel, together with the name and address of the person to whom any request for a review should be sent
- The date by which any request for a review should be lodged
- That any request for a review must set out the grounds on which the request is made
- That any claims on grounds of disability discrimination can also be set out. If a case for discrimination is made, this will be referred to a First Tier Tribunal or a County Court.

If the committee decides to overturn the exclusion, again as with fixed term exclusions, the decision as to whether there is to be an immediate reinstatement or a later date for this to occur will be conveyed to all parties. A note of the governing body's views on the exclusion will be placed on the pupil's school record with copies of relevant papers.

Independent Review Panels

We advise parents that they can request a review of the decision by the governor's committee to uphold a permanent exclusion. The Academy Trust is responsible for managing and training independent panels concerning cases of permanent exclusion. An independent panel can uphold an exclusion but cannot overturn the decision of a governors' committee. The panel can recommend that the governing body reconsiders its decision, taking account of the findings of the panel. If the panel has grounds for believing that the governors' decision was flawed, they can direct the governing body to reconsider their decision.

The Academy Trust may appoint a clerk to provide advice to the panel and parties to the review on procedure, legislation and statutory guidance on exclusions.

The Academy Trust must ensure that all panel members and clerks have received training within the two years prior to the date of the review.

If requested by parents, the Academy Trust must appoint an SEND expert to attend the panel and will cover the associated costs of the appointment (regardless of whether the school recognises that a pupil has SEND).

Follow Up

Where an application for an independent review has been made within 15 school days the pupil will remain on the school roll until the review has been held and its outcome known.

The Head of School will, however, remove a the name of a permanently excluded pupil from the school admissions register if:

- 15 school days have passed since the parents were notified of the governing body's decision to uphold the permanent exclusion.
- The parents have stated in writing that they will not be applying for an independent review.

If the parents go on to make a discrimination claim which is upheld by either a First Tier Tribunal or the County Court, the pupil must be re-instated.

Should the LA place an excluded pupil with us, we will not refuse to take such a pupil unless we are full. However, if the child has already been excluded from two or more schools, then our governing body may refuse to take her/him.

Parenting Orders

Under the anti-social Behaviour Act 2003, LAs have powers to apply for a parenting order to help address children's behaviour in school. If necessary, we will request the LA to make an application for a parenting order if we feel it necessary to help us address a child's behaviour in school. A parenting order is a court order which compels parents to attend parenting classes and to fulfil other requirements as determined necessary by the court for improving their child's behaviour.

Parenting orders will only be considered following a permanent exclusion or a second fixed term exclusion within 12 months, particularly if parents have not responded to the opportunity to meet with us or the governor's committee.

In relation to the financial implications of exclusion should a pupil be permanently excluded, the appropriate sum allotted for that child's education will be deducted immediately from the school budget. The money will remain in the school budget for a

little longer if the parent chooses to appeal to a governors' committee and then an independent review panel. If an independent review panel directs the governing body to reconsider a permanent exclusion but the governing body upholds that exclusion, the school will be required to make a payment of £4,000 to the LA in which the school is sited.

This is to ensure that the money follows the child to whatever form of education he/she receives after the exclusion. Special arrangements can be made if the child moves to another authority or would be about to move anyway from one phase of education to another e.g. at age 11.