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Signed by Chair of Governors		**Signed by Headteacher**	
This policy has been reviewed on 27/07/2021 and has been impact assessed in the light of all other school policies and the Equality Act 2010.			

Exclusions Policy

Etwall Primary School

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1. 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
- 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 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

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

Our school is 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 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:

- 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)

4. 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.

5. Roles and responsibilities

5.1 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.

The headteacher should also make reasonable steps to set and mark work for pupils during the first five days of an exclusion. Arrangements for collection & return of completed work will need confirmed.

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.

5.2 The governing board

The governing board has a duty to consider the reinstatement of an excluded pupil (see section 6)

Within 14 days of receipt of a request, the governing board 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 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 LA

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 governing board 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 governing board 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.

The governing board 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 governing board 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.

The suggested DCC framework for a governor exclusion meeting can be found in Appendix 2, 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. A checklist for a governor exclusion meetings can be found in Appendix 3

The governing board 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 governing board's 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 SEN are considered to be relevant to the exclusion
    - That, regardless of whether the excluded pupil has recognised SEN, parents have a right to require the Local Authority to appoint an SEN expert to attend the review
    - Details of the role of the SEN 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

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 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 governing board 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
- 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 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 Local Authority, 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 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 impartially
- 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 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.

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 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.

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.

The following measures may be implemented when a pupil returns from a fixed-term exclusion:

- Agreeing a behaviour contract
- Putting a pupil 'on report'
- Internal isolation

10. Monitoring arrangements

The Headteacher and governor responsible for behaviour monitor 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.

11. Links with other policies

This exclusions policy is linked to our

- Behaviour policy
- SEN 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: Framework for Governor Exclusion Meeting

Outline of the Governors' Meeting
Introductions by the Chair and explanation of the purpose and conduct of the meeting
Head teacher presents the reason for exclusion and the written evidence/relevant information on which it was based.
Questions to the head teacher from parents/carers, governors
Parent/carer's or pupil's view (parents/carers and pupils can also be supported by a friend or representative if they wish)
Questions to parent/carer and/or pupil from governors, the head teacher
The head teacher and then the parent/carer are each invited to sum up
The governors are left alone, or with their clerk, to consider their decision
Governors come to a decision on whether to reinstate the pupil. Governors cannot extend the length of fixed period exclusion or change a fixed period exclusion to a permanent exclusion.
The governors then invite the other people to join them to inform them of the decision.
If the parent/carer decide to return home prior to the decision, or the Chair feels that the governors' deliberations will be lengthy, the Chair should contact the parent at the end of the meeting and verbally convey the decision.
When giving the decision to parents/carers it is considered good practice for the Chair to advise them of the reasons behind reaching this decision.
This decision must be confirmed in writing within 1 school day. This remains the responsibility of the clerk to governors. The letter should set out the reasons for the governing board's decision in sufficient detail to enable all parties to understand why the decision was made.
Minutes of the meeting should be placed on the pupil's record with a copy of the head teacher's exclusion letter and relevant papers. The governing board must, as soon as reasonably practicable, make the minutes available to all parties.

Appendix 3: Governor Exclusion Meeting Checklist

Checklist for Exclusion Meetings		
	Yes	**No**
Was the pupil responsible for the behaviour described? Governors should ask themselves whether there is sufficient proof of the behaviour described to warrant the sanction of exclusion. The head teacher in making the decision to exclude, must apply the civil standard i.e. the balance of probabilities. On reaching a decision to exclude the head teacher has to determine if it is **more probable than not** that the pupil did what s/he is alleged to have done.		
If the behaviour is proven did it go against the school's published behaviour policy? The behaviour policy should clearly state unacceptable behaviour and sanctions that will be applied, whilst being mindful of appropriate support offered. The DfE has published information regarding school behaviour policies within **Behaviour & discipline in schools guide for headteacher and school staff (2014**		
Has the exclusion process been carried out properly and fairly? Governors have to consider whether **Exclusion from maintained schools, academies and pupil referral units in England. A guide for those with legal responsibilities in relation to exclusion (2017**) has been adhered to, and that the investigation of the incident has been carried out fairly and includes the perspectives of the excluded student and other witnesses.		
Has a multi-agency assessment been considered? The DfE states that disruptive behaviour can be an indication of unmet needs. Where a school has concerns about a pupil's behaviour it should try to identify whether there are any causal factors and intervene early in order to reduce the need for subsequent exclusion. In this situation schools should give consideration to a multi-agency assessment that goes beyond the pupil's educational needs.		
Were any appropriate alternatives to the exclusion actively pursued? For example, a managed move, alternative provision, Tailor Made Programme (TMP) or support centre? The LA has produced a **managed move** protocol that outlines the processes for a young person with a pattern of disruptive behaviour, which may have resulted in internal school sanctions or fixed term exclusion, to move schools. This enables a pupil to have a fresh start in a new school. It is important that all parties are in agreement with this move: exporting and receiving school and parents. It is felt that managed moves are more effectively used as an early intervention strategy prior to a pupil being put forward for a permanent exclusion.		

Alternative provision may be considered appropriate for some disaffected pupils who are at risk of permanent exclusion. Examples include: college placements, work related learning and work experience. Additionally where schools can evidence a graduated response to meeting a pupil's behavioural needs, and have evidence of reviewed plans and external agencies involvement and interventions, it may be appropriate to apply for a **Tailor Made Programme**, supported by the Integration Pathways Team whilst continuing to remain on the roll of the school. **Support centres** provide opportunities for pupils to benefit from an offsite placement which typically is a part time, short term intervention, which focuses on addressing the social/emotional/behavioural elements of a pupil's needs whilst remaining dual registered with the school.		
Have referrals for additional High Needs funding streams such as TAPS/GRIP been considered? There are a number of LA resources that school can apply to in order gain additional funding for young people with Social Emotional & Mental Health (SEMH) needs. Both TAPS and GRIP referrals require schools to evidence their graduated response to meeting a young person's needs. However, if a school's application is successful the LA will transfer additional short term funding to school's budgets to contribute towards the costs of interventions and support personnel.		
Has restorative justice been sought (if appropriate)? This enables the offender to redress harm that has been done to the 'victim', and enables all parties with a stake in the outcome to participate fully in the process. This has been used successfully to resolve situations that could otherwise have resulted in exclusion. All the professionals involved in the process need to be thoroughly involved and this can only work with the consent of all parties.		
Is the pupil considered to be at particular risk of exclusion (e.g. Pupils with Special Educational Needs)? Head teachers should as far as possible avoid permanent exclusion for pupils with Education Health Care plans/Statements of Special Educational Needs. The school should in partnership with others (including the LA as necessary) consider what additional support or alternative placement may be required. This should involve assessing the suitability of provision for a pupil's SEN. If it is envisaged that a pupil with a Education Health Care plan/Statement is at risk of permanent exclusion then an interim annual review of his/her plan/statement should be considered.		
Is the pupil considered to be at particular risk of exclusion (e.g. Child in Care)? Head teachers should as far as possible avoid permanently excluding Children in Care (CIC). Schools should engage proactively with foster carers and children's homes workers and the head teacher of Virtual School (of the LA who looks after the child). The school should in partnership with others (including the LA as necessary) consider what additional support or alternative placement may be required.		

Within Derbyshire LA the Virtual School takes a lead role in supporting Derbyshire CIC who are at risk of exclusion, and also track and monitor the exclusions of this cohort of young people. In cases where a CIC is excluded anyone with parental responsibility will have the right to make representations and to appeal (if the exclusion is permanent). The definition of a parent for the purpose of the Education Acts is broadly drawn and includes: ▪ The Local Authority where they have a care order in respect of the child ▪ A person with whom the child lives (e.g. foster carer) ▪ Birth parents This means that there could be a number of people whom the school has to notify about the exclusion and who will have the right to make representations and appeal. However, where a child is subject of a care order, the local authority that has parental responsibility for the child is entitled to determine to what extent the parents exercise their parental responsibility.		
Were there any discriminatory factors involved in the case? Race, gender, religion, disability etc. Under the Equality Act 2010 schools must not discriminate against, harass or victimise pupils because of their sex, race, disability, religion or belief, sexual orientation, because of pregnancy/maternity or because of gender reassignment. For disabled children this includes a duty to make reasonable adjustments to policies and practices.		
Was the incident provoked or were there other mitigating circumstances? It is important to establish whether the incident that led to the exclusion was exacerbated by: bullying, including homophobic bullying, or by racial or sexual harassment. Consideration or whether a pupil has recently suffered a bereavement/or loss, or has mental health issues, could be relevant.		
If other pupils were involved, were they treated differently? If so, was this justified? Are you clear of the particular role taken in the incident by this child? Witness statements are of particular relevance here. All written witness statements must be attributed and signed and dated, unless the school has good reason to wish to protect the anonymity of the pupils, in which case they should at least be dated. The panel must consider what weight to attach to written statements, whether made by adults or pupils.		
Were appropriate screening, searching and confiscation powers used? In certain circumstances pupils can be searched without consent. The school needs reasonable grounds that a pupil has in their possession a prohibited item. More detail is provided in DfE guidance (2014) Screening, searching and confiscation. Advice for headteachers, staff and governing bodies.		
Was there appropriate use of reasonable force? School staff have the power to use reasonable force to prevent pupils committing an offence, injuring themselves or others, or damaging property and to maintain good order and discipline in the classroom.		

Further information can be obtained from the DfE, in their guidance Use of reasonable force. Advice for head teachers, staff and governing bodies (2013).		

Appendix 4: Useful Contacts

AGENCY:	CAN HELP YOU WITH:	CONTACT DETAILS:
Inclusion Team	General advice on the exclusion process Alternatives to permanent exclusion (managed moves, TAPS etc).	**01629 535802**
Integration PathwaysTeam (IPT)	The Integration Pathways Team will contact the parent directly to advise on the education provided by the LA after permanent exclusion (for pupils of statutory school age) Preventative Tailor Made Programmes (TMP) are also supervised and monitored by the IPT.	Integration Pathways Team General Offices: **01629 537277** **01246 207709**
Derbyshire Information Advice & Support Service for SEND	One to one support in assisting parents through the exclusion process. Where possible attending Governors meetings, as parent adviser for permanent exclusions. Liaising with school and LA departments	**Advice line – 01629 533668** Opening hours 9.30-3pm but messages can be left outside these hours **ias.service@derbyshire.gov.uk**
Coram Children's Legal Centre	Parent- friendly exclusion information. Helpline for child law advice	Coram Children's Legal Centre University of Essex Wivenhoe Park Colchester Essex CO4 3SQ **www.childrenslegalcentre.com**
ACE Education	Parent- friendly exclusion information.	www.ace-ed.org.uk 03000 115 142
Department for Education	Exclusion from maintained schools, academies and pupil referral units in England - A guide for those with legal responsibilities in relation to exclusion (2017). Copies of the SEND Code of Practice: 0-25 years (2015)	Department for Education publications: **www.gov.uk/government/publications/school-exclusion** Department for Education publications: **www.gov.uk/government/publications/send-code-of-practice-0-25**