

Heritage Park Primary School

Exclusions Policy



Approved by: Paresh Desai (Chair of Governors)

Last reviewed on: November 2020

Next review due by: November 2022

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Exclusions Policy

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)

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](#)

The decision to exclude

Only the headteacher, or a member of staff acting in place of the Headteacher in her absence, 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 or disabilities (SEND)

Definition

For the purposes of exclusions, the 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.

Roles and Responsibilities

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 body and how the pupil may be involved in this
 - Where there is a legal requirement for the governing body 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 body and Local Authority

The headteacher will immediately notify the governing body 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 body and LA once a term.

The governing body

Responsibilities regarding exclusions are delegated to a panel of governors formed on an ad-hoc basis which consists of at least 3 governors.

The governing body 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

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.

Considering the Reinstatement of a Pupil

If requested to do so by parents, the governing body 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 governing body will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the chair of the governing body (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 governing body 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 body 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, and a record of evidence considered kept. The outcome will also be recorded on the pupil's educational record.

The governing body 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 body'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 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 Local Authority 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 SEND 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

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 body 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 body 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 body 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 body, 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 body, 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 (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 body's decision
- Recommend that the governing body reconsiders reinstatement
- Quash the governing body'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.

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 body 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.

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

Monitoring Arrangements

Karen Bell (Headteacher) monitors the number of exclusions every term and reports back to the governors. The Headteacher liaises with the Local Authority to ensure suitable full-time education for excluded pupils.

This policy will be reviewed by the Headteacher every 2 years. At every review, the policy will be shared with the governing body.

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 bodies 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: Changes to the School Exclusion Process During the Coronavirus (COVID-19) Outbreak

Government website:

<https://www.gov.uk/government/publications/school-exclusion/changes-to-the-school-exclusion-process-during-the-coronavirus-outbreak> (updated 5 October 2020)

This statutory guidance describes the temporary changes we have made to the school exclusion process due to coronavirus (COVID-19).

The normal arrangements and procedures that must follow a decision to exclude on disciplinary grounds are described in the 2017 statutory guidance on [exclusion from maintained schools, academies and pupil referral units in England](#). They are unchanged except as noted in this guidance.

Important dates

All exclusions occurring between 1 June 2020 and 24 March 2021 (inclusive of those dates) are subject to amended arrangements with regards to:

- the use of remote access technology (for example videoconferencing or telephone conferencing software) for meetings of governing bodies or independent review panels
- the deadline for applications for an independent review

The governing body and independent review panels (IRPs) who have a duty to meet to discuss an exclusion that occurred between 1 June 2020 and 24 September 2020 may be eligible for time extensions in some circumstances.

It is important that meetings relating to exclusions occurring between 25 September 2020 and 24 March 2021 take place within the normal timescales described in the [exclusion from maintained schools, academies and pupil referral units in England](#) statutory guidance.

The governing body and Local Authority responsible for independent review panels should take all reasonable steps to meet the normal deadlines for exclusions occurring after 24 September 2020.

They should:

- consider the [guidance on protective measures for the full opening of schools](#)
- facilitate remote access meetings where it is not reasonably practicable to meet in person

If the deadlines are missed because of coronavirus (COVID-19), the meeting must be held as soon as it becomes reasonably practicable to meet either in person or via remote access (respecting the conditions for such a meeting).

An exclusion should be taken as having 'occurred' on the first day of the exclusion.

Any exclusions covered by these arrangements will continue to be subject to them until the procedures for scrutiny of the exclusion have been exhausted.

Remote meetings

For exclusions occurring between 1 June 2020 and 24 March 2021 (inclusive of those dates), meetings of governing bodies or independent review panels should be held via remote access if:

- it is not reasonably practicable for the meeting to take place in person, within the usual timescales, due to coronavirus (COVID-19)
- the governing body (or arranging authority, if the meeting is an IRP) is satisfied that:
 - all the participants agree to the use of remote access
 - all the participants have access to the technology which will allow them to hear and speak throughout the meeting, and to see and be seen, if a live video link is used
 - all the participants will be able to put across their point of view or fulfil their function
 - the meeting can be held fairly and transparently via remote access

It is the responsibility of the school governing body (or the arranging authority in the case of an IRP meeting) to make sure these conditions are met before a meeting takes place.

Those who have no intention of taking part in the meeting should not be treated as 'participants' for the purposes of the conditions.

When determining if it's practicable to meet in person the governing body or arranging authority should assess:

- the facts of the case
- the circumstances in which a meeting in person could be expected to take place

- the needs of the intended participants (as far as this is possible)
- the latest public health guidance (including the [guidance for full opening of schools](#))

Arranging a remote access meeting

The governing body or arranging authority should explain the technology they propose to use to participants and should make sure that the participants (particularly pupils and their families) know that they do not have to agree to a meeting to be held via remote access if they do not want to.

They should make families aware that if they do not consent to a remote access meeting then the meeting is likely to be delayed.

Where a parent or pupil has given their agreement for a meeting to be held via remote access, the other participants should accommodate that preference except in exceptional circumstances.

Governing bodies, arranging authorities and panel members must comply with relevant equalities legislation and recognise that some participants may find it difficult to participate in a remote access meeting (for example, if someone has a disability or if English is not their first language).

The governing body or arranging authority should take reasonable steps to facilitate a parent, child or young person's access to the technology required.

If a governor, trustee, panel member or other participant requires support to access or use remote access technology, the governing body or arranging authority should facilitate this to ensure the meeting can be held promptly.

Fairness and transparency

The assessment of whether a meeting can be held fairly and transparently via remote access must be made with reference to the facts of each case and cannot be decided by rigidly following a general policy.

If a governing body or arranging authority is not satisfied that a meeting can be held fairly and transparently via remote access, they should consider what reasonable adjustments could be made to surmount this, consulting with parents and pupils to take account of their wishes.

It will only be in rare cases that a governing body or arranging authority conclude that a remote meeting would not be fair and transparent if the participants have understood the implications of a remote access meeting and have given their consent. In such cases, the governing body or arranging authority should explain to the parent and the pupil why this decision has been taken.

Running the meeting

If a meeting is held via remote access, every effort should be made by the chair to check the participants understand the proceedings and can engage with them, to ensure the meeting is conducted fairly.

If, once the meeting starts, the meeting cannot proceed fairly (for example, because a participant cannot access the meeting), the governing body or IRP should adjourn the meeting.

The use of remote access does not alter other procedural requirements that may apply to governing bodies, arranging authorities or IRPs. For example, if a parent requests the appointment of a special educational needs (SEN) expert to advise a review panel, the arranging authority must appoint one and cover the cost as normal. Parents may be joined by a friend or representative, as normal.

Though governing bodies and IRPs must consider written representations if they are made, the law does not allow for solely paper-based 'meetings', conducted in writing.

As long as the conditions for a remote access meeting are met, it is possible for some participants to be present in person and for others to join the meeting via remote access. All the participants must have access to technology which will allow them to hear and be heard by others throughout (and to see and be seen throughout, if a live video link is used).

To help meetings run smoothly and ensure they are accessible for participants:

- provide clear instructions to participants about how to join the meeting virtually, and distribute the relevant papers in a timely manner ahead of the meeting
- indicate a named person who participants can contact, with any questions they may have beforehand
- ensure the chair is prepared to explain the agenda at the start of the meeting, and to provide clear guidance on how the meeting will be run, for example:
 - how participants should indicate they wish to speak
 - how any 'chat' functions should be used
 - whether there will be any breaks in proceedings
 - how participants can access advocacy services during the meeting
- consider holding a pre-meeting with attendees to check that the available technology is suitable, and all participants understand how to access the meeting

Applications for an independent review

The deadline for applications for an independent review in relation to exclusions occurring between 1 June 2020 and 24 March 2021 will be 25 school days from the date on which notice in writing of their decision is given to parents, or directly to the pupil if they are 18 or above.

Schools must wait for the extended period of 25 school days to pass without an application having been made before deleting the name of a permanently excluded pupil from their admissions register, in accordance with the Education (Pupil Registration) (England) Regulations 2006 as amended.

Timescales for exclusions between 25 September 2020 and 24 March 2021

Exclusions between 25 September 2020 and 24 March 2021 (inclusive) should follow the deadlines in the [exclusion from maintained schools, academies and pupil referral units in England](#) statutory guidance, other than the deadline for the application of an independent review.

If it is not reasonably practicable to meet by the usual deadline either in person (because of coronavirus (COVID-19)) or by remote access (because of the conditions for a remote access meeting), the meeting must not be delayed any longer than is reasonably necessary because of coronavirus (COVID-19).

Timescales for exclusions between 1 June and 24 September 2020

Governing bodies and independent review panels (IRPs) who have a duty to meet to discuss an exclusion that occurred between 1 June 2020 and 24 September 2020 may be eligible for time extensions in some circumstances, which are described in this guidance.

It is important that meetings relating to exclusions occurring between 25 September 2020 and 24 March 2021 take place within the normal timescales as described in the [exclusion from maintained schools, academies and pupil referral units in England](#) statutory guidance. If the deadlines are missed because of coronavirus (COVID-19), the meeting must be held as soon as it becomes reasonably practicable to meet in person or via remote access (respecting the conditions for such a meeting).

Meetings to consider permanent exclusions, and fixed period exclusions resulting in the pupil missing more than 15 school days in a term

If a pupil is permanently excluded or is excluded for a fixed period which results in them having been excluded for 16 or more school days in a term, then the governing body should meet to discuss reinstatement within 15 school days.

The limit will be extended to 25 school days, or as long as reasonably necessary, if:

- the exclusion occurred between 1 June 2020 and 24 September 2020
- it has not been reasonably practicable for the governing body to meet face to face within 15 school days for reasons relating to coronavirus (COVID-19)
- it has not been reasonably practicable to meet by way of remote access for a reason relating to the conditions for a remote access meeting

Meetings to consider fixed period exclusions resulting in the pupil missing between 6 and 15 school days in a term

If a pupil is excluded for a fixed period which results in them having been excluded for at least 6 school days in a term but not more than 15 school days in that term, and the parent (or pupil, if aged 18 or above) chooses to make representations about the exclusion, then the governing body should meet to discuss reinstatement within 50 school days.

The limit will be extended to 60 days, or as long as reasonably necessary, if:

- the exclusion occurred between 1 June 2020 and 24 September 2020
- it has not been reasonably practicable for the governing body to meet face to face within 50 school days for reasons relating to coronavirus (COVID-19)
- it has not been reasonably practicable to meet by way of remote access for a reason relating to the conditions for a remote access meeting

Timescales for meetings of independent review panels to consider permanent exclusions

The timescale for the meeting will be extended to 25 school days, or as long as reasonably necessary for a reason related to coronavirus (COVID-19) if:

- the exclusion occurred between 1 June 2020 and 24 September 2020
- it has not been reasonably practicable for a review panel to meet in person within the original time limit of 15 school days for reasons related to coronavirus (COVID-19)
- it has not been reasonably practicable to meet by way of remote access for a reason relating to the conditions for a remote access meeting

To minimise uncertainty for pupils and their families, the arranging authority should reassess at regular intervals whether it is reasonably practicable to meet, and if it is, should arrange to do so without delay.