

# Stoneferry Primary School



## Policy for Fixed Term and Permanent Exclusions

Updated: June 2020

## **Stoneferry Primary School**

### **Exclusion Policy**

This policy should be read in conjunction with the Behaviour policy, the Anti-Bullying policy, the Safeguarding policy, Child Protection policy and all policies relating to complaints against staff.

It should also be read in conjunction with *'Exclusion from maintained schools, academies and pupil referral units in England'* DFE 2017

#### **Statement of aims**

At Stoneferry Primary School we aim to ensure that:

- The exclusions process is applied fairly and consistently
- The exclusions process is understood by governors, staff, parents and pupils
- Pupils are safe and happy

#### **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 head teacher's power to exclude**

- Only the Head of School, or Deputy Head teacher, can exclude a pupil from school. A permanent exclusion will be taken as a last resort.

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 head of school 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 and disability (SEND) in line with the SEND Code of Practice.
- Provide clarity for parents on all aspects of behaviour within the Academy and allow parents, staff and students to support each other in creating the best possible learning environment

If a child is sent home at any point on disciplinary grounds this must be recorded as an exclusion (recorded in minimum of half day 'blocks').

If a child's behaviour outside of school can have a detrimental effect on behaviour in school, brings the school into disrepute or undermines the authority of senior staff exclusion from school can be a considered option. This is in line with the behaviour policy and instances should be judged on their own merit or severity.

Under the Equality Act 2012, schools must not discriminate against, harass or victimise pupils because of their: sex; race; disability; religion or belief; sexual orientation; because of a pregnancy/maternity; or because of a gender reassignment.

## **Roles and responsibilities**

### **The Head of School:**

- Informing parents
- The head teacher 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 Head of School 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 Head of School must also inform the governing body and the local authority of the following, immediately:**

1. A permanent exclusion (including where a fixed period exclusion is made permanent)
2. Exclusions that would result in the pupil being excluded for more than five school days (or more than ten lunchtimes) in a term
3. Exclusions which would result in the pupil missing a public examination or national curriculum test.
4. For a permanent exclusion, if the pupil lives outside the LA in which the school is located, the head teacher 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 head teacher must notify the local authority and governing body once a term.

### **The Governing Body**

- Responsibilities regarding exclusions is delegated to the Local Governing Body consisting of at least 3 governors
- The Local Governing Body has a duty to consider the reinstatement of an excluded pupil (see below)
- Within 14 days of receipt of a request, the Governing Board will provide the secretary of state with information about any exclusions in the last 12 months
- For a fixed-period exclusion of more than 5 school days, the Governing Board will arrange suitable full-time education for the pupil. This provision will begin no later than the sixth day of the exclusion
- 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**

- The Local 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
- If requested to do so by parents, the Local 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
- The Local 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 Local Governing Body will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the Head Teacher 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 Local Governing Body will notify, in writing, the Head of School, parents and the LA of its decision, along with reasons for its decision, without delay
- Where an exclusion is permanent, the Local Governing Body 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 Academy trust 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.

### **Independent Review Panel**

- If applied for by parents within the legal time frame (15 school days), the Academy trust must arrange for an independent review panel hearing to review the decision of the governing body not to reinstate a permanently excluded pupil.

### **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

### **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*

### **Monitoring arrangements**

- The Head of School/ Assistant Head of School monitors 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.

Reviewed June 2020

Next Review June 2022