



St Francis Church of England Voluntary Aided Primary School

Exclusions Policy

Policy drawn up by Administrator
ratified by Governors

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Version No	Date	Change/Review
V1.0	May 2016	Policy Adopted
V1.1	March 2018	Reviewed and ratified
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V1.3		

St Francis School vision statement

'We believe that all children are a gift from God. That they are all special and should be allowed to develop and grow in a nurturing environment secure in the knowledge that they are cherished.'

This policy is written within due consideration and within the framework of statutory guidance 'Exclusion from maintained schools, academies and pupil referral units in England'. Department for Education, January 2015.

Except where specifically stated, legislation and statutory guidance apply in relation to all pupils attending St Francis School including those below compulsory school age.

In addition to the child's birth parents, references to parents in this guidance include any person who has parental responsibility (which includes the local authority where it has a care order in respect of the child) and any person (for example, a foster carer) with whom the child lives. This policy refers to "parents" throughout and where practicable it is expected that all those with parental responsibility should be engaged with the exclusions process.

What legislation does this policy refer to?

- Section 51A of the Education Act 2002, as inserted by the Education Act 2011
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- Sections 100 to 108 of the Education and Inspections Act 2006

Policy

- In considering whether or not to exclude a pupil, the Headteacher will assess the seriousness or persistence of the pupil's behaviour, together with the impact of not excluding the pupil on the school as a whole and the integrity of the behaviour policy.

Whilst every effort will be made to identify pupils at risk of exclusion, and to put in place strategies to address problematic behaviour, adopting a blanket approach of never excluding pupils could undermine the school's ability to maintain discipline.

- Where the school has concerns about a pupil's behaviour it will try to identify whether there are any causal factors and intervene early in order to reduce the need for a subsequent exclusion. In this situation the school will consider requesting a multi-agency assessment that goes beyond the pupil's educational needs. They will also consider whether alternative provision would help improve the pupil's behaviour.
- The school will not discriminate against pupils on the basis of protected characteristics, such as gender, sexual orientation, disability or race. All pupils must be treated fairly and lawfully.

- All children have a right to an education. The school will take reasonable steps to set and mark work for pupils during the first five school days of an exclusion, and alternative provision must be arranged from the sixth day. There are benefits in arranging alternative provision to begin as soon as possible after an exclusion. The school will have a strategy for reintegrating pupils that return to school following a fixed period exclusion, and for managing their future behaviour. Where parents dispute the decision not to reinstate a permanently excluded pupil, they can ask for it to be reviewed by an independent review panel. Where there is an allegation of discrimination (under the Equality Act 2010) in relation to a fixed-period or permanent exclusion, parents can also make a claim to the First-tier Tribunal (for disability discrimination) or a County Court (for other forms of discrimination).
- Excluded pupils will be enabled and encouraged to participate at all stages of the exclusion process, taking into account their age and understanding.

Categories of Exclusion

- *Fixed Period:* Regulations allow head teachers/ teachers in charge to exclude a pupil for one or more fixed periods which, when aggregated, do not exceed a total of 45 school days in any one school year
- *Lunchtime:* Pupils whose behaviour at lunchtime is disruptive may be excluded from the school premises for the duration of the lunchtime period. Lunchtime exclusions are counted as one half day of a school day for statistical purposes and to trigger governor/management committee meetings so that parents can make representations.
- *Permanent:* A decision to exclude a child permanently is a serious one and should only be taken where basic facts have been clearly established on the balance of probabilities. It will usually be the final step in a process for dealing with disciplinary offences following a wide range of other strategies which have been tried without success. It is an acknowledgement by the school that it has exhausted all available strategies for dealing with the child and should normally be used as a last resort.

Permanent exclusion is a response to serious breaches of the school's behaviour policy and is also used if allowing the pupil to remain in the school would seriously harm the education or welfare of the pupil or others in the school. It should not be imposed in the heat of the moment. It is likely that a range of other strategies, including internal/external exclusion, school based strategies, referral to the Pupils AT Risk Panel have been tried and failed.

In rare, extreme circumstances permanent exclusion may be used for a one-off offence.

Headteacher Responsibility

- The Headteacher may exclude a pupil on disciplinary grounds. The behaviour of pupils outside school may be relevant and can be considered as grounds for an exclusion decision. A pupil may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year, aggregated), or permanently. In exceptional cases, usually where further evidence has come to light, a fixed period exclusion may, in effect, be “extended” by issuing a further fixed period exclusion or a subsequent permanent exclusion may be issued.

It would, however, be unlawful to impose a fixed period exclusion for an indefinite period of time. A fixed period exclusion does not have to be for a continuous period; for example, where pupils attend more than one school then the exclusion could relate only to the days on which they attend the school at which an incident occurred. A fixed period exclusion can also involve a part of the school day; for example, if pupils’ behaviour at lunchtime is disruptive, they may be excluded from the school premises for the duration of the lunchtime period. The legal requirements relating to exclusion, such as the Headteacher’s duty to notify parents, apply in all cases. Lunchtime exclusions are considered as half a school day for statistical purposes and also in determining whether a governing body meeting is triggered.

- The Headteacher’s will take account of their legal duty of care to a pupil when taking a decision to send a pupil home following an exclusion.
- When establishing the facts in relation to an exclusion the Headteacher will apply the civil standard of proof and not the criminal standard of “beyond reasonable doubt”. This means that if something is more likely than not to have occurred (“on the balance of probabilities”) then the standard is met.
- The headteacher and the governing body will take account of their statutory duties in relation to special educational needs (SEND) when administering the exclusion process. This includes having regard to the SEN Code of Practice.
- Any exclusion of a pupil, even for short periods of time, must be formally recorded. Formally arranged part-time timetables may be necessary as a temporary measure in exceptional circumstances to meet pupils’ needs but will not be used as a disciplinary sanction.
- The school has powers to direct pupils off-site for education to improve their behaviour. A pupil can also transfer to another school as part of a ‘managed move’ where this occurs with the consent of the parties involved, including the parents. The threat of exclusion will never be used to influence parents to remove their child from the school.
- The use of exclusion will reflect the importance of good behaviour for the education and welfare of all pupils. In considering whether to exclude a pupil, the headteacher will weigh up the seriousness, or persistence, of the pupil’s

behaviour, together with the impact of not excluding the pupil on the school as a whole and the integrity of the behaviour policy.

- It is for the Headteacher to decide whether a child's behaviour warrants permanent exclusion, though this is a serious decision and will be reserved for:
 - a. a serious breach, or persistent breaches, of the school's behaviour policy; or
 - b. where a pupil's behaviour means allowing the pupil to remain in school would be detrimental to the education or welfare of the pupil or others in the school.
- Allowing pupils an opportunity to present their case before taking the decision to exclude will help ensure that the decision is fair, although this may not always be practicable. The Headteacher will also take account of any contributing factors that are identified after an incident of poor behaviour has occurred; for example, where it comes to light that a pupil has suffered bereavement, has mental health issues or has been subject to bullying or other emotional stress.
- The Headteacher may also consider the use of a multi- agency assessment for pupils who demonstrate persistent disruptive behaviour. Such assessments may pick up unidentified special educational needs but the scope of the assessment could go further, for example, by seeking to identify mental health or family problems.
- Where the school has concerns about the behaviour or risk of exclusion of a child with additional needs, including a pupil with an EHC plan or a looked after child, it will, in partnership with others (including the local authority as necessary), consider what additional support or alternative placement may be required.
- Whenever the Headteacher excludes a pupil they will, without delay, notify parents of the period of the exclusion and the reasons for it. Parents will also be provided with the following information in writing:
 - a. the reasons for the exclusion;
 - b. the period of a fixed period exclusion or, for a permanent exclusion, the fact that it is permanent;
 - c. the parents' right to make representations about the exclusion to the governing body (in line with the statutory requirements) and how the pupil may be involved in this;
 - d. how any representations should be made; and
 - e. where there is a legal requirement for the governing body to consider the exclusion, that parents have a right to attend a meeting, be represented at this meeting (at their own expense) and to bring a friend.

- Where an excluded pupil is of compulsory school age the Headteacher will also notify the pupil's parents of the days on which they must ensure that the pupil is not present in a public place at any time during school hours. These days would be the first five school days of an exclusion (or until the start date of any alternative provision where this is earlier).
- The failure of a Headteacher to give notice of any required information by the required time does not relieve the head of the duty to serve the notice. A notice is not made invalid solely because it has not been given by the required time.
- When notifying parents about an exclusion, the Headteacher will set out what arrangements have been made to enable the pupil to continue his / her education prior to the start of any alternative provision or the pupil's return to school, in line with the legal requirements and guidance. The Headteacher will also sign-post parents to relevant sources of information which will include
 - a. a link to this statutory guidance on exclusions
 - b. (www.gov.uk/government/publications/school-exclusion);
 - c. a link to the Coram Children's Legal Centre (www.childrenslegalcentre.com), 08088 020 008; and
 - d. where considered relevant by the Headteacher, links to other information, advice and support services, such as Traveller Education Services or the local parent partnership (www.iassnetwork.org.uk).
- The Headteacher will, without delay, notify the governing body and the local authority of:
 - a. a permanent exclusion (including where a fixed period exclusion is followed by a decision to permanently exclude the pupil);
 - b. exclusions which would result in the pupil being excluded for more than five school days (or more than ten lunchtimes) in a term; and
 - c. exclusions which would result in the pupil missing a public examination or national curriculum test.
 - d. Once a term – all exclusions of 5 days or less (or 10 lunchtimes or less)
- For a permanent exclusion, if the pupil lives outside the local authority in which the school is located, the Headteacher will also advise the pupil's "home authority" of the exclusion without delay.
- For all other exclusions the Headteacher will notify the local authority and governing body once a term.
- The Headteacher will remove the permanently excluded pupil's name from the school admission register if:
 - a. 15 school days have passed since the parents were notified of the governing body's decision to uphold a permanent exclusion and no application has been made for an independent review panel; or

b. the parents have stated in writing that they will not be applying for an independent review panel.

Governing Body Responsibilities

- For a fixed period exclusion of more than five school days, the governing body will arrange suitable full- time education for any pupil of compulsory school age. This provision must begin no later than the sixth school day of the exclusion. Where a child receives consecutive fixed period exclusions, these are regarded as a cumulative period of absence for the purposes of this duty. This means that if a child has more than five consecutive days of exclusion, then education must be arranged for the sixth school day of exclusion regardless of whether this is as a result of more than one fixed period exclusion
- It is important for the school to help minimise the disruption that exclusion can cause to an excluded pupil's education. Where it is not possible, or appropriate, to arrange alternative provision during the first five school days of an exclusion, the school will take reasonable steps to set and mark work for pupils. Work that is provided will be accessible and achievable by pupils outside school.
- The governing body has a duty to consider parents' representations about an exclusion. The requirements on the governing body to consider an exclusion depend upon a number of factors (a diagram illustrating these requirements is provided at the end of this document).
- The governing body of the school may delegate their functions with respect to the consideration of an exclusion decision to a designated committee or panel. Such panel should comprise of three or more members and should be clerked.
- Within 15 school days of receiving notice of the exclusion, the governing body or panel will consider whether an excluded pupil should be reinstated in the case of:
 - a. all permanent exclusions;
 - b. all fixed period exclusions of pupils who have been excluded for more than 15 school days in the term, or who will have been as a result of the exclusion; and
 - c. all fixed period exclusions that would result in a pupil missing a public examination or national curriculum test.
- Where the exclusion has resulted in a pupil missing a national curriculum test there is a further requirement for the governing body, so far as is reasonably practicable, to consider the exclusion before the date of the examination or test. If this is not practicable, the chair of governors may consider the exclusion independently and decide whether or not to reinstate the pupil. In

such cases parents still have the right to make representations to the governing body and will be made aware of this right.

- For all other fixed period exclusions where a pupil has been excluded for more than 5 school days and up to 15 school days and their parents have made representations, the governing body will consider within 6 -50 school days of receiving notice of the exclusion whether the excluded pupil should be reinstated. In the absence of any representations from the excluded child's parents, the governing body will not be required to meet and cannot direct the reinstatement of the pupil.
- Where a fixed period exclusion would not bring the pupil's total number of days of exclusion to more than five in the term, the governing body will consider any representations made by parents, but it cannot direct reinstatement and will not be required to meet the parents.
- Whilst there is no legal imperative to allow an excluded pupil to return to school in order to take a public examination or test, the governing body will consider whether it would be appropriate to exercise discretion and allow the excluded pupil back on school premises for this purpose.
- Where the governing body is legally required to consider the reinstatement of a pupil the following parties will be invited to a meeting of the governing body and allowed to make representations:
 - a. parents (and, where requested, a representative or friend);
 - b. the headteacher; and
 - c. a representative of the local authority
- In deciding whether to reinstate the pupil, the governing body will consider not only the representations made but also the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded. The governing body will also have regard to the interests of other pupils and people working at the school.
- When establishing the facts in relation to an exclusion the governing body will apply the civil standard of proof and not the criminal standard of "beyond reasonable doubt". This means that if something is more likely than not to have occurred ("on the balance of probabilities") then the standard is met. In the light of its consideration, the governing body can either:
 - a. uphold an exclusion; or
 - b. direct reinstatement of the pupil immediately or on a particular date.

- The governing body will follow statutory guidance in preparing for, considering and notifying of an exclusion decision. This will include:
 - a. statutory information in notification of decisions
 - b. reasons for the decision
 - c. relevant sources of free and impartial information
- Where the review panel directs or recommends that the governing body reconsiders its decision, the governing body will reconvene to do so within 10 school days of being given notice of the panel's decision.
- The governing body will reconsider its decision conscientiously, whether the panel has directed or recommended it to do so. Although the governing body may still reach the same conclusion as it first did.
- Any stated intention that the excluded pupil does not wish to return to the school will have no bearing on the duty of the governing body to reconvene and reconsider its decision.
- It is for the governing body to decide which governors should meet to reconsider its decision. These could be governors involved in the original decision; those not involved in the decision; or a combination of both.
- The governing body will comply with any direction of the review panel to place a note on the pupil's educational record.
- In the case of either a recommended or directed reconsideration, the governing body will notify the following people of its reconsidered decision, and the reasons for it, in writing and without delay:
 - a. the parents;
 - b. the headteacher;
 - c. the local authority
- It is the responsibility of the governing body to ensure that any decision it makes is lawful, reasonable and fair. The reconsideration provides an opportunity for the governing body to look afresh at its original decision to uphold the exclusion, in light of the findings of the independent review panel.
- The decision on whether or not to uphold the exclusion is for the governing body to make, though it will take proper account of the panel's findings. There is no requirement to seek further representations from other parties or to invite them to the reconsideration meeting. The governing body is not prevented from taking into account other matters that it considers relevant.
- Whether or not the pupil will return to the school will have no bearing on the governing body's decision whether to uphold the exclusion. The governing body will, therefore, base its reconsideration on the presumption that a pupil will return to the school, regardless of any stated intentions by the parents or pupil.

- The Headteacher may not postpone taking a decision to exclude solely because a police investigation is underway and / or any criminal proceedings may be brought. In such circumstances, the Headteacher will take a decision on the evidence available to them at the time. The final decision on whether to exclude will be for the Headteacher to make.
- Where the governing body is required to consider the Headteacher's decision in these circumstances it cannot postpone its meeting and will decide whether or not to reinstate the pupil on the evidence available.

Relevant exclusion types and timescales are:

- Fixed period exclusions of 5 – 15 days Convene a review meeting between 6th and 50th school day
- Fixed period exclusions of 15 days or more Convene a review meeting within 15 school days
- Permanent exclusions Convene a review meeting within 15 school days

Governing Body Permanent Exclusion Meeting

When convening a permanent exclusion meeting the Governing Body should ensure that:

- There are a minimum of three governors, one of whom will chair the meeting
- Any governor having prior knowledge or connection to the pupil must step down
- The meeting is effectively clerked
- The pupil, their parents, Headteacher, and LA Officer are all invited to attend
- Any written statements and/or reports are circulated prior to the meeting to all parties to allow reading time
- No party, except the clerk, is left alone with the Governors at any point before, during or after the meeting
- Parents and LA Officer, if they attend, are permitted to make oral representations
- The Governors consider all oral representations fairly
- A decision is made as to whether to uphold the exclusion or require reinstatement

Governing Body Decision

When reaching a decision the Exclusions Panel must:

- Consider whether the Headteacher's decision to exclude was justified
- Apply the balance of probabilities standard of proof
- Require the most convincing evidence in the most serious incidents/allegations
- Ensure that all witness statements are attributed, signed and dated
- Consider school policies e.g. Behaviour Policy, Drugs Policy, Anti-Bullying Policy, SEND Policy

Notifying Parents of the Decision

It is good practice to notify the parents by telephone as soon as possible. This must be followed up in writing within 1 school day. The letter must clearly state the reasons for the Governing Body decision. It must also give details and timescales of the appeals process if appropriate.

Independent Appeal Panel (IAP)

If the Governing Body has upheld the decision to exclude, the pupil's parents may lodge an appeal. The appeal must be lodged within 15 school days of notification of the Governing Body's decision. An IAP and clerk will be appointed by the LA.

The appeal hearing must take place within 15 school days of the day on which the appeal is lodged. The pupil, their parents, the Headteacher, a nominated Governor and a LA Officer will be invited to St Francis' Church of England Primary School to attend. Prior to the meeting the clerk will circulate all written evidence to all parties, who may put forward new evidence at the meeting.

The IAP will need to consider:

- Did the pupil do what they are alleged to have done?
- Did the Headteacher and Governing Body comply with the law and have regard to the guidance?
- What does the school Behaviour Policy say?
- Was the exclusion fair in relation to the treatment of any other pupils involved?
- Was the exclusion a reasonable response?
- The balance of the interests of the excluded pupil against all other members of the school community.

The IAP's decision is binding on the parents, the Governing Body, the Headteacher and the LA. If the exclusion is upheld the LA will make arrangements for the pupil's education to continue and the pupil's name will be removed from the roll of the school.

If the pupil is reinstated the Panel will specify a date to the Headteacher on which the pupil must be re-admitted to the school. In exceptional circumstances the Panel may decide that reinstatement is not practical but otherwise would have been appropriate.