



# Walkwood

Church of England  Middle School

## Exclusion Policy

Governing Body Committee responsible:	Ethos, Inclusion and Care		
Approval granted:	5 July 2021	Review date:	Summer 2024

“God did not give us a spirit of cowardice, but rather a spirit of power and of love and of self-discipline.”

2 Timothy 1: 7

“Church of England Schools have at their heart a belief that all children are loved by God, are individually unique and that the school has a mission to help each pupil to fulfil their potential in all aspects of their personhood: physically, academically, socially, morally and spiritually. Schools have a duty to try to remove any factor that might represent a hindrance to a child’s fulfilment. We want all pupils to want to engage in learning in a safe and welcoming ethos.”

*Valuing All God’s Children, Church of England, 2014*

“The core purpose of any Church school is to maximise the learning potential of every pupil within the love of God.”

*SIAMS (Statutory Inspection of Anglican and Methodist Schools) 2012*



## Purpose

It is the policy of Walkwood Church of England Middle School 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.

The principal legislation to which this policy relates is:

- The Education Act 2002, as amended by the Education Act 2011;
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012;
- The Education and Inspections Act 2006; and
- The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007;
- The Children and Families Act 2014.

The Department for Education document '*Exclusion from maintained schools, Academies and pupil referral teacher's England*' is also a source of information.

## Introduction

We aim to provide a happy, healthy and safe school by:

- recognising, reflecting and celebrating the skills, talents, contributions and diversity of all our pupils and staff members;
- providing high quality pastoral care, support and guidance;
- safeguarding the health, safety and welfare of pupils and staff;
- listening and responding to the concerns of pupils and parents;
- taking care to balance the needs of all members of the school community.

The definition of a parent for the purposes of the Education Act is broadly drawn. 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.

## Principles

Exclusion is a sanction used by the school only in cases deemed as serious breaches of the Living and Learning Together Policy. A pupil may be at risk of exclusion for:

- verbal or physical assault of a pupil or adult;
- persistent and repetitive disruption of lessons and other pupils' learning;
- extreme misbehaviour which is deemed outside the remit of the normal range of sanctions.

The school seeks to reduce the number of incidents leading to exclusions, internal or external, by promoting a positive atmosphere of mutual respect and discipline within the school.



The Reflection Room is used where internal exclusion takes place under the supervision of Walkwood staff.

An external, fixed term, exclusion from the school can only be authorised by the Principal or the Deputy Principal acting on their behalf. If neither are available to authorise the exclusion a decision should be deferred until the opportunity for authorisation is available.

In the case of a Permanent Exclusion, this can only be authorised by the Principal and must only be done after consulting the Chair of Governors of the intention to impose this sanction, although the final decision rests with the Principal.

In exceptional cases, usually where further evidence has come to light, an external fixed term exclusion may be issued to begin immediately after the first period ends; or a permanent exclusion may be issued to begin immediately after the end of the fixed period.

The school regularly monitors the number of exclusions to ensure that no group of pupils is unfairly disadvantaged through their use and that any underlying needs of individuals are being fully met.

The behaviour of pupils outside school can be considered as grounds for exclusion, for example educational visits and journeys, away school sports fixtures or an off-site placement is subject to the School's Living and Learning Together Policy. Inappropriate behaviour in these circumstances will be dealt with as if it had taken place in school. If pupils' behaviour in the immediate vicinity of the school or on a journey to and from school is inappropriate and meets the school criteria for exclusion, then the Principal may decide to exclude.

In considering the evidence in relation to an exclusion decision the civil standard of proof, i.e. 'on the balance of probabilities' it is more likely than not that a fact is true, will be used.

## Notification of an Exclusion

### Internal exclusion

If authorisation is given, then either the College Leader or the Pastoral Manager will make telephone contact with the parent or carer. This will be done as soon as possible after the decision to make use of the Reflection Room.

A pupil who has been placed in the Reflection Room will have the reason for his/her exclusion explained to them by a member of staff, so that they understand the nature of their misbehaviour.

### External exclusion

Parents will be notified as soon as possible of the decision to exclude a pupil and the reason for the exclusion. This will be done on the day of the exclusion being authorised, by either direct phone contact or a face-to-face meeting. A written confirmation of the reason(s) for the exclusion and its duration will be sent to parents the same day. This may be by letter or email. The



notification will inform the parent that the pupil is not to be present in a public place at any time during school hours.

In the case of a Permanent Exclusion, parents will be notified by either direct phone contact or a face-to-face meeting.

A pupil who has been excluded will have the reason for his/her exclusion explained to them by a member of staff so that they understand the nature of their misbehaviour.

The school will also work to put in place a programme for the pupil on his/her return. This will include input from staff at the school, parents, if appropriate, and any other appropriate bodies. Should it be decided for whatever reason that the matter needs to be put in the hands of another agency, i.e. the incident leads to the discovery that there is a child protection issue, the school will continue to monitor the situation and work closely with that agency. It is hoped that in most cases following an exclusion, the child will be able to return to school and that further input will promote in him/her a more positive attitude and a subsequent improvement in behaviour.

The Chair of Governors and relevant school staff will be notified of all external exclusions the same day of the production of the exclusion letter.

For the first five 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 reasonable justification, and that parents may be given a fixed penalty notice or prosecuted if they fail to do so.

## Pupils returning from an External Exclusion

Any pupil returning from a Fixed Term Exclusion are required to attend a reintegration meeting, accompanied by a parent. This meeting will seek to establish practical ways in which further exclusion can be avoided and behaviour modified to acceptable standards in partnership between pupil, parent and school.

## Permanent Exclusions

The school will usually only permanently exclude a child as a last resort, after trying to improve the child's behaviour through other means.

A decision to exclude a pupil permanently should only be taken:

- in response to a serious breach or persistent breaches of the school's behaviour policy; and
- where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

If a pupil has been permanently excluded:



- the school's governing body is required to review the Principal's decision and the parent may meet with them to explain their views on the exclusion;
- if the governing body confirms the exclusion, the pupil's parent can appeal to an independent appeal panel organised by the local authority;
- the school must explain in a letter how to lodge an appeal;
- the local authority must provide full-time education from the sixth day of a permanent exclusion.

The school will make arrangements to provide suitable full time education from the sixth day onwards for pupils who have been given an external exclusion lasting longer than five days. Once alternative provision has been arranged from the sixth day of the exclusion, the Principal 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.

## Appeals

All correspondence regarding an exclusion from the school will inform parents of their right to appeal to the Governing Body against the decision to exclude. This procedure is clearly set out in the statutory guidance. The person who should be contacted to initiate an appeal is the Clerk to the Governors.

## Independent Review Panels

The school will advise parents that they can request a review of the decision by the governor's committee to uphold a 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.

Whether or not a school recognises that a pupil has special educational needs, all parents have the right to request the presence of a SEN expert at an independent review panel. The SEN expert's role is to provide impartial advice to the panel about how SEN could be relevant to the exclusion.

If applied for by parents within the legal time frame, the school must, at their own expense, arrange for an independent review panel hearing to review the decision of a governing body not to reinstate a permanently excluded pupil. The legal time frame for an application is:

- within 15 school days of notice being given to the parents by the governing body of their decision to uphold a permanent exclusion; or
- where an application has not been made within this time frame, within 15 school days of the final determination of a claim of discrimination under the Equality Act 2010 in relation to the exclusion. Any application made outside of the legal time frame must be rejected by the school.



The school will not delay or postpone arranging an independent review panel where parents also make a claim of discrimination in relation to the exclusion to the First-tier Tribunal (Special Educational Needs and Disability), or the County Court.

Parents may request an independent review panel even if they did not make a case to, or attend, the meeting at which the governing body considered the exclusion. The school will take reasonable steps to identify a date for the review that all parties are able to attend. However, the review must begin within 15 school days of the day on which the school received the parent's application for a review; (panels have the power to adjourn a hearing if required).

Parents may, at their own expense, appoint someone to make written and / or oral representations to the panel. The governing body will reconsider whether the pupil should be reinstated, doing so conscientiously, whether the panel has directed or merely recommended it to do so. Further representations need not be sought. The governing body is not prevented from taking into account other matters it considers relevant, ensuring that any such information does not make the decision unlawful.

## Equality Act 2010

The school will follow the guidance on the Equality Act 2010 published by the 'Equality and Human Rights Commission' in Section 5.4 entitled 'What equality law means for you as an educational provider.' This guidance states that whilst a 'school must not discriminate against a pupil by excluding them from school', "it does not mean a school cannot exclude a pupil with a protected characteristic". The guidance recognises that "there may be occasions when it is appropriate to exclude a pupil with a protected characteristic;" it stresses it is important that a school does not exclude 'because of' the protected characteristic. A claim of discrimination under this Act should be lodged within six months of the day that the pupil was excluded.

## Appendix 1



## Parental guide on Exclusion

Disclaimer: This non-statutory document is not replacing the statutory guidance on exclusion and is intended only to support parents' understanding of the exclusion process.

The exclusion legislation applies to maintained schools; pupil referral units; and Academies / Free Schools – other than 16 – 19 Academies. It applies to all pupils at these schools, including those who are above or below compulsory school age, for example where a school also has a nursery or a sixth form. It does not apply to independent schools, stand-alone nurseries, stand-alone sixth form colleges and other post-16 provision, such as FE colleges; these have their own exclusion arrangements. If you are unsure in which category your child's school fits, you can find this information in Edubase: <http://www.education.gov.uk/edubase/home.xhtml>.

### Glossary:

The term '**must**' refers to what principals / governing bodies / academy trusts / local authorities and parents are required to do so by law. The term '**should**' refers to recommendations for good practice as mentioned in the exclusion guidance. In this document and in the exclusion guidance, '**parents**' refers to parent(s) / legal guardian(s) / foster carer(s) of pupils under 18, as well as to pupils over 18.

**Internal Exclusion** (also referred to as 'the Reflection Room'): when a pupil is barred from the classroom, but not from the school site. This is not an exclusion.

**Fixed-period Exclusion** (also referred to as 'suspension'): when a pupil is barred from the school premises for a fixed amount of time (including exclusions during lunchtime).

**Permanent Exclusion** (also referred to as 'expulsion'): when a pupil is permanently barred from the school premises.

**Alternative provision:** This refers to the education arrangements made for excluded pupils that do not involve mainstream or special schools.

### Reasons for Exclusion

For what reasons can a school exclude my child?

There is no list of set behaviours for which a pupil can and cannot be excluded, and the decision to exclude lies with the principal. Principals can only exclude a pupil for a disciplinary reason (e.g. because their behaviour violates the school's behaviour policy). They cannot, for example, exclude a pupil for academic performance / ability, or simply because they have additional needs or a disability that the school feels it is unable to meet. A principal can exclude for behaviour outside of school, or for repeatedly disobeying academic instructions.

Can the school send my child to be educated elsewhere?

Schools have the power to send a pupil to another education provider at a different location to improve his or her behaviour without the parents having to agree. A school can also transfer a pupil to another school – a process called a 'managed move' – if they have the agreement of everyone involved, including the parents and the admission authority for the new school.

Schools cannot force a parent to remove their child permanently from the school or to keep their child out of school for any period of time without formally excluding. The threat of exclusion must never be used to influence parents to remove their child from the school.

Can a school ask me to collect my child / send my child home early without following the formal exclusions process?



'Informal' or 'unofficial' exclusions, such as sending pupils home 'to cool off', are not allowed, even if they are with the agreement of parents. Any exclusion of a pupil, even for short periods of time, must follow the formal process, including being formally recorded (see below). Any fixed-period exclusion must have a stated end date.

### **Exclusion process**

#### What happens when my child is excluded?

Please go to the section entitled 'What happens when your child is excluded' on the GOV.UK website: <https://www.gov.uk/school-discipline-exclusion>.

#### Are there legal obligations that a school has to follow when excluding a pupil?

When a principal excludes a pupil, they must without delay let parents know the type of exclusion and the reason(s) for it. They must also, without delay, provide parents with the following information in writing:

- the reason(s) for the exclusion;
- the length of the exclusion;
- the parents' right to put forward their case about the exclusion to the governing body, how they should go about doing this and how the pupil can be involved; and
- when relevant, what alternative provision will be provided from the 6<sup>th</sup> day of a fixed-period exclusion.

#### Is there a limit to the number of times my child can be excluded?

Yes. A pupil cannot be excluded for more than 45 days in one school year. This means they cannot have one fixed-period exclusion of 46 days or more; and also they cannot have lots of shorter fixed-period exclusions that add up to more than 45 days. This is true even if these exclusions have been given in different schools. Lunchtime exclusions – where pupils are excluded from school over the lunch period because this is when their behaviour is a problem – are counted as half a day. [what happens next then if the child exceeds the maximum?]

### **Scrutiny of the Exclusion**

#### Can I question the decision to exclude my child?

Parents have the right to make their case about the exclusion of their child to the governing body. For fixed-period exclusions, unless the exclusion takes a pupil's total number of school days of exclusion past five in that term, the governing body must consider any case made by parents, but it cannot make the school reinstate the pupil and is not required to meet the parents.

For all permanent exclusions, the governing body must consider, within 15 school days of being told about the exclusion, whether the excluded pupil should be reinstated. This is the same for fixed-period exclusions where the pupil will miss more than 15 days in one term, or will miss a 'public exam' (e.g. a GCSE) or a national curriculum test (i.e. a key stage 2 test taken at the end of primary school). For a fixed-period exclusion that brings a pupil's total excluded days to more than five but under 15, the governing body must consider reinstatement within 50 school days.

Information can be found on the GOV.UK website at the following link:

<https://www.gov.uk/school-discipline-exclusion/exclusions>.

What can I do if I feel my child is being discriminated against in the exclusion process, for example because he / she has a disability?



Schools have a duty under the Equality Act 2010 not to discriminate against pupils on the basis of protected characteristics, such as disability or race, including in all stages of the exclusion process. Parents can raise this issue during the exclusion review meeting with the governing body. If the governing body decides not to reinstate the pupil, parents can request an independent review panel to review the governing body's decision. When making their request, parents can ask for a Special Educational Needs (SEN) expert to attend the hearing to advise the panel on how SEN might be relevant to the exclusion. Parents can request this even if their child has not been officially recognised as having SEN. If a parent believes that their child has been discriminated against in the exclusion process because of a disability, then they may also make a claim to the First-tier Tribunal within six months of the exclusion:

[www.tribunals.gov.uk/Tribunals/Firsttier/firsttier.html](http://www.tribunals.gov.uk/Tribunals/Firsttier/firsttier.html).

The Tribunal can consider claims about permanent and fixed-period exclusions. For permanent exclusions, this can be done instead of, or in addition to, an independent review panel.

#### Where can I get independent advice on my options regarding the exclusion?

- The Department's guidance to schools on exclusion, which is available on the GOV.UK website: <https://www.gov.uk/government/publications/school-exclusion>.
- 'School discipline and exclusions' and 'Complaint about a school or childminder': <https://www.gov.uk/school-discipline-exclusions/exclusions> and <https://www.gov.uk/complain-about-school>.

There are a number of organisations that provide free advice to parents on exclusion matters:

- Coram Children's Legal Centre can be contacted on 0345 345 4345 or through [http://www.childrenslegalcentre.com/index.php?page=education\\_legal\\_practice](http://www.childrenslegalcentre.com/index.php?page=education_legal_practice).
- ACE education runs a limited advice line service on 0300 0115 142 on Monday to Wednesday from 10 am to 1 pm during term time. Information can be found on the website: <http://www.ace-ed.org.uk/>.
- The National Autistic Society (Schools Exclusion Service (England)) can be contacted on 0808 800 4002 or through [schoolexclusions@nas.org.uk](mailto:schoolexclusions@nas.org.uk).

#### **Arrangements for my child after Exclusion**

##### Will my child still receive an education?

Schools should take reasonable steps to set work for pupils during the first five days of a fixed-period exclusion.

From the sixth day of an exclusion, suitable full-time education must be arranged for pupils of compulsory school age (primary and secondary school age), except for Year 11 pupils (final year of secondary school) whose final exams have passed. In the case of a fixed-period exclusion of more than five school days, it is the duty of the school to arrange this education. If a parent wishes to raise a concern about lack of education during a fixed-period exclusion (and their child is still of compulsory school age), they may follow the school's official complaint procedure.

In the case of a permanent exclusion, arranging suitable full-time education is the duty of the local Council where the pupil lives. If a parent wishes to raise a concern about lack of, or the quality of, education following a permanent exclusion (and their child is still of compulsory school age),



parents should complain to the local Council where they live. If parents are unsure of which local Council they need to speak to, they should ask the school for advice.

Does my child still have a right to attend their exams when excluded?

This is a decision left to the school. Neither the school nor the local Council is legally required to arrange for an excluded pupil to take a 'public exam' or national curriculum test that occurs during the exclusion, although some may choose to arrange for this either on school premises or elsewhere. Where a parent has concerns about their child missing a 'public exam' or national curriculum test, they should raise these with the school.

What are my duties as a parent?

For the first five days of any exclusion, parents must ensure that their child of compulsory school age is not in a public place during school hours without very good reason. Parents must also ensure that their child attend any new full-time education provided from the sixth day of exclusion, (unless they have arranged suitable alternative education themselves).

