



# Meadowside Community Primary & Nursery School

A Member of **The Challenge Academy Trust**

## Exclusions & Appeals Policy

<b>Policy written by</b>	School
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<b>Head teacher</b>	Mr S Wright 
<b>Chair of Governors</b>	Mr P Calrow 

*'Where Learners Grow'*

## Contents

1. Aims.....	1
2. Legislation and statutory guidance.....	1
3. The Decision to Exclude .....	2
4. Definition .....	2
5. Roles and responsibilities .....	2
6. Considering the reinstatement of a pupil .....	4
7. An independent review .....	5
8. School registers .....	6
9. Returning from a fixed-term exclusion .....	6
10. Monitoring arrangements .....	6
11. Links with other policies .....	6

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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

This policy complies with our funding agreement and articles of association.

### **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.

### **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**

Responsibilities regarding exclusions is delegated to Meadowside Community Primary & Nursery School's Governing Body consisting of at least 3 governors.

Meadowside Community Primary & Nursery School's Governing Body has a duty to consider the reinstatement of an excluded pupil (see section 6).

Responsibilities regarding exclusions is delegated to a designated sub-committee – this can be smaller than 3 governors.

Meadowside Community Primary & Nursery School's Governing Body has a duty to consider the reinstatement of an excluded pupil (see section 6).

## **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**

Meadowside Community Primary & Nursery School's 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

If requested to do so by parents, Meadowside Community Primary & Nursery School's 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, Meadowside Community Primary & Nursery School's Governing Body will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the designated sub committee will consider the exclusion and decide whether or not to reinstate the pupil.

Meadowside Community Primary & Nursery School's 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, Meadowside Community Primary & Nursery School's 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.

Meadowside Community Primary & Nursery School's 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, Meadowside Community Primary & Nursery School's 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 Meadowside Community Primary & Nursery School 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 Governing Body 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 Meadowside Community Primary & Nursery School's 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 academy trust, 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 academy trust], 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 academy trust, school, governing board, 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 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.

## **10. Monitoring arrangements**

The Headteacher monitors the number of exclusions every term and reports back to the Meadowside Community Primary & Nursery School's Governing Body. They also liaise with the local authority to ensure suitable full-time education for excluded pupils.

This policy will be reviewed by every year. At every review, the policy will be shared with the governing board.

## **11. Links with other policies**

- Behaviour Management Policy
- SEND Policy.

## **APPENDIX 1:**

### **Independent review panel training**

Meadowside Community Primary & Nursery School's Governing Body 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 Principals, 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:**

### **Model letter for fixed term exclusions**

Dear

I am writing to inform you of my decision to exclude ....for a fixed period of ....day. This is due to the incident on ..... This means that he/she will not be allowed in school for this period. The exclusion began on ....and ends on .....

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude .....has not been taken lightly. ....has been excluded for this fixed period because of

.....behaviour this morning/afternoon and the concerns for his safety and the safety of others.

You have a duty to ensure that your child is not present in a public place in school hours during this exclusion on ..... unless there is reasonable justification for this. I must advise you that you may receive a penalty notice from the local authority if your child is present in a public place during school hours on the specified date. If so, it will be for you to show reasonable justification.

We will set work for .....to be completed on the day specified in the previous paragraph as it is a school day. You must ensure that he/she is not present in a public place without reasonable justification. Please ensure that work set by the school is completed and returned to us on his return to school.

You have the right to make representations about this decision to the governing body. If you wish to make representations please contact (Chair of Governors details).....as soon as possible. Whilst the governing body has no power to direct reinstatement, they must consider any representations you make and may place a copy of their findings on your child's school record.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to appeal, and/or make a claim, to the Special Educational Needs and Disability Tribunal (SENDIST, which is scheduled to become part of the Health, Education and Social Care Chamber of the First Tier Tribunal from November 3 2008 under the new tribunal arrangements). The address to which appeals should be sent is SENDIST, Mowden Hall, Staindrop Road, Darlington DL3 9DN.

**You and .....are requested to attend a reintegration interview with me on \_\_\_\_\_ at \_\_\_\_\_. The purpose of the reintegration interview is to discuss how best your child's return to school can be managed. Failure to attend a reintegration interview will be a factor taken into account by a**

**magistrates' court if, on future application, they consider whether to impose a parenting order on you.**

You also have the right to see a copy of .....school record. Due to confidentiality restrictions, you will need to notify me in writing if you wish to be supplied with a copy of .....school record. I will be happy to supply you with a copy if you request it. There may be a charge for photocopying.

You may wish to contact a member of the Education Safeguarding Team at Warrington LA on (01925) 442928 who can provide advice. You may also find it useful to contact the Advisory

Centre for Education (ACE) – an independent national advice centre for parents of children in state schools. They offer information and support on state education in England and Wales, including on exclusion from school. They can be contacted on 020 7704 9822 or text 'AskACE' to 68808.

(Childs name) exclusion expires on..... and we expect .....to be back in school on... (date).

Yours sincerely

[Name]

Headteacher

### **APPENDIX 3:**

#### **Recommended letter to parents when the decision has been made to permanently exclude a child**

Dear [Parent's Name]

I regret to inform you of my decision to permanently exclude [Child's Name] with effect from [date]. This means that [Child's Name] will not be allowed in this school unless he/she is reinstated by the governing body/the discipline committee.

I realise that this exclusion may well be upsetting for you and your family, but the decision to permanently exclude [Child's Name] has not been taken lightly. [Child's Name] has been excluded because [reasons for the exclusion]

You have a duty to ensure that your child is not present in a public place in school hours during the first 5 school days of this exclusion, i.e. on **[specify the precise dates]** unless there is reasonable justification. You could be prosecuted or receive a penalty notice if your child is present in a public place during school hours on those dates. It will be for you to show reasonable justification.

Alternative arrangements for [Child's Name]'s education to continue will be made. For the first five school days of the exclusion we will set work for [Child's Name] and would ask you to ensure this work is completed and returned promptly to school for marking [this may be different if supervised education is being provided earlier than the sixth day]. From the sixth school day of the exclusion onwards — i.e. from [specify the date]. The local authority of Warrington Borough Council will provide suitable full-time education and the arrangements of this education will be notified shortly by a further letter to you and contact will be made to arrange this education before the end of day six of the exclusion.

I have also today informed Ellen Parry at Warrington Borough Council of your child's exclusion and he will be in touch with you about arrangements for [his/her] education from the sixth school day of exclusion. You can contact her on 01925 442928 or email him at [eparry@warrington.gov.uk](mailto:eparry@warrington.gov.uk) and she will visit you to discuss the details of what support is available to you and the exclusion process.

As this is a permanent exclusion the governing body must meet to consider it. At the review meeting you may make representations to the governing body if you wish and ask them to reinstate your child in school. The governing body have the power to reinstate your child immediately or from a specified date, or, alternatively, they have the power to uphold the exclusion in which case you may request a review of their decision by an Independent Review Panel. The latest date by which the governing body must meet is [specify the date — the 15th school day after the date on which the governing body was notified of the exclusion]. If you wish to make representations to the governing body and wish to be accompanied by a friend or representative please contact [name of contact] on/at [contact details — address, phone number, email], as soon as possible. You will, whether you choose

to make representations or not, be notified by the Clerk to the governing body of the time, date and location of the meeting. Please let us know if you have a disability or special needs which would affect your ability to attend the meeting. Also, please inform [contact] if it would be helpful for you to have an interpreter present at the meeting.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to appeal, and/or make a claim, to the First Tier Tribunal <http://www.justice.gov.uk/tribunals/send/appeals>. Making a claim would not affect your right to make representations to the governing body/management committee.

You have the right to see a copy of [Name of Child]'s school record. Due to confidentiality restrictions, you must notify me in writing if you wish to be supplied with a copy of [Name of Child]'s school record. I will be happy to supply you with a copy if you request it. There may be a charge for photocopying.

For your information the following sources of information are available to you:

- You may find it useful to contact the Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 0808 802 0008 or on [www.childrenslegalcentre.com](http://www.childrenslegalcentre.com). The advice line is open from 8am to 8pm Monday to Friday, except Bank Holidays and 24th December to the 1st January.
- The Department for Education statutory exclusions guidance can be found at [www.gov.uk/government/publications/school-exclusion](http://www.gov.uk/government/publications/school-exclusion)

Yours sincerely

[Name]

Headteacher