



FARNWORTH CHURCH OF ENGLAND PRIMARY SCHOOL

EXCLUSIONS POLICY

Recommended by	J. Stillings (using model policy from The Key)
Approved by	Governing Body
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1. Aims

This policy should be read in conjunction with the Good Behaviour and Anti-bullying policy which clearly sets out our aims for behaviour.

In addition, 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:

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- 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](#)

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.

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.

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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 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.

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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.

5.2 The governing body

Responsibilities regarding exclusions is delegated to the Discipline Committee of the governing body consisting of at least 3 governors.

The Discipline Committee of the governing body has a duty to consider the reinstatement of an excluded pupil (see section 6).

Within 14 days of receipt of a request, the governing body will provide the secretary of state and the LA with information about any exclusions in the last 12 months.

For a fixed-period exclusion of more than 5 school days, the governing body will arrange suitable full-time education for the pupil. This provision will begin no later than the sixth day of the exclusion.

5.2 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

The Discipline Committee of 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

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- 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, the Discipline Committee of 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 Discipline Committee of 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 Discipline Committee of 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 Discipline Committee of 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 Discipline Committee of 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 Discipline Committee of 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

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- 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 LA 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 LA 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 Discipline Committee of 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:

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- Are a member of the LA, 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 LA, 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 LA, 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.

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 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.

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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.

The following measures may be implemented when a pupil returns from a fixed-term exclusion:

- Agreeing a behaviour contract
- Putting a pupil 'on report'

10. Monitoring arrangements

This policy will be reviewed by the headteacher every 3 years. At every review, the policy will be shared with the governing body.

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Appendix 1: Independent review panel training

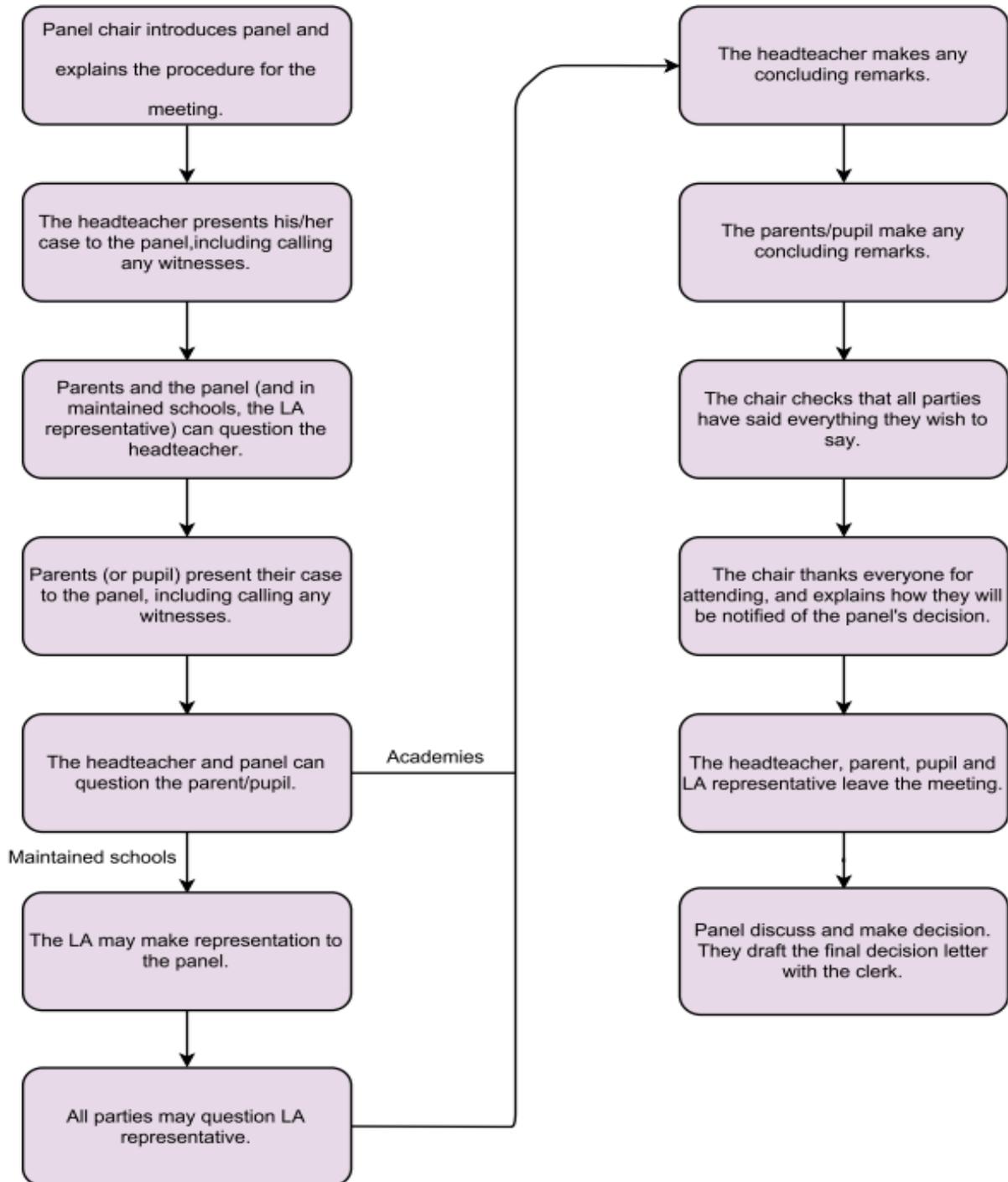
The LA must ensure that all members of an independent review panel and clerks have received training within the 2 years prior to the date of the review.

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

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Appendix 2
Procedure for Discipline Committee meeting





Appendix 3

Discipline Committee Protocols

Governing bodies have a duty to consider the headteacher's decision to exclude a pupil. In Farnworth CE this duty is delegated to the Discipline Committee.

Who should attend?

The following people must be invited to a meeting of the governing body and allowed to make representations:

- Parents
- The headteacher
- A representative of the local authority

The following people also attend discipline committee meetings:

- At least three governors, one of whom will act as chair of the committee
- A clerk to take notes and advise on procedure
- The pupil, unless he/she is very young or there are strong reasons against his/her attendance
- Witnesses, although these do not normally remain for the full meeting

Parents' representatives

Where the governing body is legally required to consider an exclusion, it should allow parents and pupils to be accompanied by a friend or representative.

The friend is there to act as an advocate, and to accompany and support the parent. They can make statements or ask questions on the parent's behalf. Any questions the friend asks should be from the parent's perspective.

Provided the friend or advocate is acting on the parent's behalf, the members of the committee should allow him or her to make statements and ask questions.

Pupils attending the meeting

The DfE's statutory guidance says (paragraph 61) the governing body should:

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... identify the steps it will take to enable and encourage the excluded pupil to attend the meeting and speak on their own behalf (such as providing accessible information or allowing him/her to bring a friend), taking into account the pupil's age and understanding; or how the excluded pupil may feed in their views by other means if attending the exclusion meeting is not possible.

Paragraph 68 adds that the governing body should also identify the steps it will take to ensure that all parties:

... will be supported to participate in their consideration and have their views properly heard. This is particularly important where pupils under 18 are speaking about their own exclusion or giving evidence to the governing body.

Violent pupils

It is the parents who have the legal right to attend a discipline committee meeting, and this right only applies to a pupil when he/she is over 18. However, the governing body should look to give every pupil the opportunity to attend his/her own meeting, particularly in the case of secondary-age pupils.

If a pupil does not attend, he/she could still be given an opportunity to put across his/her view, for example in writing or through a representative.

Before the meeting

Setting the date and time

The DfE's guidance says the governing body must make "reasonable endeavours" to arrange the discipline committee meeting at a date and time that is convenient to all parties, although it must comply with the relevant statutory time limits (see paragraph 59).

The governing body must do everything in its power to arrange a date that is convenient for all parties, as far as possible.

If the parent has a valid reason for requesting an adjournment, the governing body should issue a new date and time for the meeting as soon as possible. The new meeting date must be within the time limit for the governing body to consider the exclusion.

The time limit is 50 days for a fixed-period exclusion of pupils who have been excluded for more than 5 but less than 15 days in a term, and 15 days for:

- All permanent exclusions
- 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

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- All fixed-period exclusions that would result in a pupil missing a public examination or National Curriculum test

There is no time limit for exclusions of fewer than 5 days in a term.

If the parent does not comply with the governing body's efforts to accommodate them within the limit, the meeting may take place without the parent being present.

Parents can still send written representations if they are not present.

Sending out evidence

The governing body should ask for any written evidence in advance of the meeting and where possible, circulate this to all parties at least five school days in advance of the meeting.

This information should include:

- A list of those who will be present at the meeting
- Witness statements
- Other relevant information held by the school, for example, information relating to a pupil's special educational needs (SEN)

Sending out evidence in advance and being prepared is critical to the meeting working well. The clerk should also be clear about how the meeting should proceed.

What to consider

During the meeting, governors must consider:

- Representations from:
 - Parents
 - The headteacher
 - The LA representative (in maintained schools)
- The interests and circumstances of the pupil who has been excluded, including the circumstances in which the pupil was excluded
- The interests of other pupils and people working at the school

This is set out in section 6.2 of the DfE's statutory guidance, linked to above.

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Questions to ask

Governors should ensure they are satisfied that the headteacher has taken all possible steps to establish the true facts of the incident that prompted the exclusion. This includes reading all the witness statements and any other documentation and carefully considering the representations made by the parents.

Governors could also reflect on:

- What is the likely impact of the exclusion on the pupil who has been excluded?
- What is the likely impact on the school? Will the exclusion be considered an appropriate sanction?

These are appropriate questions even when the governing body is not able to overturn the headteacher's decision to exclude a pupil.

Making a decision

The statutory guidance says the governing body must apply the "civil standard of proof" when establishing the facts about an exclusion. This means "on the balance of probabilities, it is more likely than not that a fact is true" rather than using the criminal standard of "beyond reasonable doubt".

The governing body can decide whether to uphold an exclusion, or to direct the reinstatement of the pupil immediately, or on a particular date.

All parties should withdraw while the governing body makes its decision. The clerk can remain present and help the governing body "by reference to his/her notes of the meeting and with the wording of the decision letter".

Taking minutes

The governing body should make sure that there are clear minutes of the meeting, as a record of the evidence that was considered by the governing body. These minutes should be made available to all parties on request.

The information above is set out in paragraphs 65 and 66 of the DfE's guidance.

The minutes should be produced by the clerk and sent to the committee chair to approve. They should be available to all parties (including parents) on request, as they may be used as evidence if parents request an independent review panel.

Because of this, the minutes should be written so that they'd be appropriate for an independent review panel. This means they should not contain detail that would be deemed confidential, such as the names of any witnesses.

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The clerk should minute the reasons behind the committee's decision, including the main points of the discussion. Governors should not be named in the minutes.

Notifying parties about a decision

The governing body must notify parents, the headteacher and the local authority of its decision, and the reason for this, in writing without delay.

Where the pupil resides in a different LA from the one that maintains the school, the governing body must also inform the pupil's 'home authority'.

Permanent exclusions

When the exclusion is permanent, the governing body's notification must also include:

- 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 following information:
 - The date by which an application for a review must be made (15 school days from the date on which notice in writing of the governing body's decision was given to parents)
 - The name and address to whom an application for a review (and any written evidence) should be submitted
 - That any application should set out the grounds on which it is being made and that, where appropriate, this should include a reference to how the pupil's special educational needs are considered to be relevant to the exclusion
 - That, regardless of whether the pupil has recognised special educational needs, parents have a right to require the LA or 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 a 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 that parents may also bring a friend to the review
- That parents may make a claim under the Equality Act 2010 if they believe the exclusion has occurred as a result of discrimination. This is in addition to the right to apply for an independent review panel. The claim is to:

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- The first-tier tribunal (SEN and disability) in the case of disability discrimination
- The county court in the case of other forms of discrimination

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