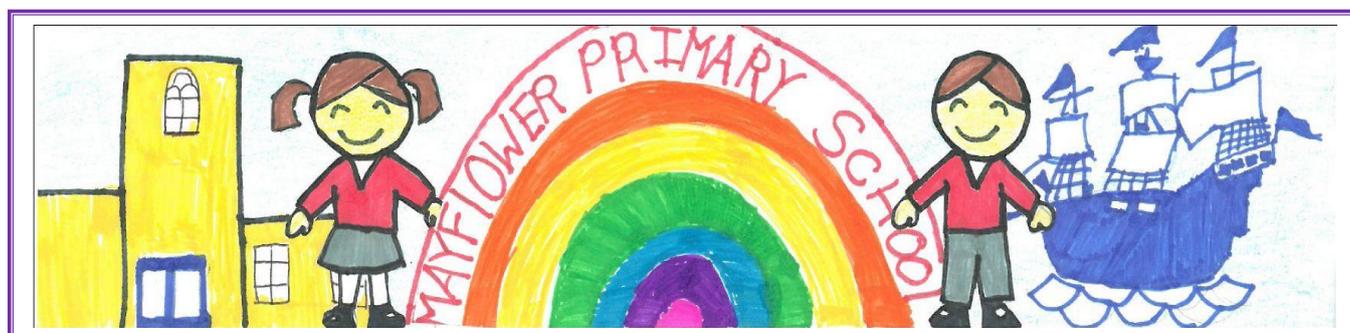


# MAYFLOWER PRIMARY SCHOOL



## EXCLUSIONS POLICY 2022-2023

School exclusion is **when a child is removed from school, either on a temporary or permanent basis**. Permanent exclusion refers to a pupil who is excluded and will not come back to that school (unless the exclusion is overturned). At Mayflower, we are proud not to have excluded any child, but also recognise a legal policy should be in place, but this is viewed as a preventative measure. Exclusion is recognised as the antithesis of inclusion, and given our commitment to all our pupils, it will only be considered an absolute last resort.

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<b>Policy Review Date:</b>	September 2022	Head Teacher: Luke Whitney	
<b>Ratified by Governing Body:</b> September 2022			
Mr. K. Bhogaita	(Chair of Governors)	Insert Signature	

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### *Aims*

At Mayflower Primary School, we understand that good behaviour and discipline is essential for promoting a high-quality education. Amongst other disciplinary sanctions, the school recognises that exclusion of pupils may be necessary where there has been a serious breach, or consistent breaches, of the school's behaviour policy. Excluding a pupil may also be required in instances where allowing the pupil to remain in school would be damaging to the education and welfare of themselves or others; in all cases, excluding pupils should only be used as a means of last resort. The school has created this policy to clearly define the legal responsibilities of the Head Teacher, Governing Body and LA when responding to pupil exclusions, to ensure that they are dealt with both fairly and lawfully, and in line with DfE statutory guidance.

This policy also aims to secure a pupil's right to an education despite having been excluded, by ensuring that appropriate arrangements are in place. It is the policy of Mayflower Primary School to try to deal with all behavioural issues in an active positive way, employing a wide range of strategies. However, should the need for exclusion arise, following a sustained period of unacceptable behaviour or a single case of an extremely dangerous and/or violent act, the school will adopt the following recommended approach:

- The child will be excluded, initially for a period of 1 - 4 days

- Parents, guardian or carers will be notified immediately by telephone and asked to remove the child from the school
- They will be given a formal letter outlining the reason for exclusion, the exclusion process and details of procedures they may wish to adopt e.g. appeals procedure
- The Chair of Governors will be notified at the time exclusion is decided, as with the appropriate agencies of Leicester City Council.
- The school will also work to put in place a support programme for the pupil on her/his return.

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) The school seeks to reduce the number of incidents leading to exclusions by promoting a positive atmosphere of mutual respect and discipline within the school. The school regularly monitors the number of Fixed Term Exclusions to ensure that no group of students is unfairly disadvantaged through their use and that any underlying needs of individuals are being fully met.

### *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: 4

- 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 has due regard to the related statutory legislation including, but not limited to, the following:
- Education Act 2002
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- Education and Inspections Act 2006
- Education Act 1996
- The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007
- The European Convention on Human Rights (ECHR)
- Equality Act 2010

This policy also has due regard to statutory and non-statutory guidance, including, but not limited to, the following:

- DfE (2017) 'Exclusion from maintained schools, academies and pupil referral units in England'
- DfE (2016) 'Behaviour and discipline in schools'
- DfE (2015) 'Special educational needs and disability code of practice: 0 to 25 years'
- DfE (2018) 'Mental health and behaviour in schools'

This policy will be implemented in conjunction with the following school policies and procedures:

- Positive Behaviour Management Policy and Anti-Bullying Policy
- Pupil Code of Conduct
- Special Educational Needs and Disabilities (SEND) Policy
- Safeguarding Policy and Child Protection Policy. The policy outlines only where the school applies its own additional guidance and policies, which complement and reinforce the statutory guidance, for purposes of clarity in the day-to-day operation of the school.

## *The Decision to Exclude*

Only the Head Teacher, or the Deputy Head Teacher, acting in the absence of the Head Teacher, can exclude a pupil from school. A permanent exclusion will be taken as a last resort.

A decision to exclude a pupil will be taken only:

- In response to serious or persistent breaches of the school's behaviour policy, and
- If allowing the pupil to remain in school would seriously harm the education or welfare of others

Before deciding whether to exclude a pupil, either permanently or for a fixed period, the Head Teacher 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 or disabilities (SEND)

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 will only exclude a pupil where it is absolutely necessary, and where all other possible disciplinary sanctions, as detailed in the school's Positive Behaviour Management Policy have failed to be successful.

The following examples of behaviour may underline the school's decision to exclude a pupil:

- Any incident which poses a risk to other pupils or members of staff, e.g. bringing a weapon onto the premises
- Any incident which breaches the law
- Persistent and severe bullying
- Verbal and physical abuse

- Constant disruption
- A single, serious and major incident, e.g. serious assault on another individual leading to injury

### *Definition*

Pupils can be excluded on a fixed-period basis, i.e. up to 45 school days within a year, or permanently. Similarly, pupils can be permanently excluded following a fixed-period exclusion, where further evidence is presented. In all cases, the Head Teacher will decide which exclusion period a pupil will be subject to, depending on what the circumstances warrant. The school has the power to direct a pupil off-site to improve their behaviour. For the purposes of exclusions, a 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.

### *Roles and Responsibilities*

#### The Head Teacher

Only the Head Teacher, or in their absence the Deputy Head Teacher, has the power to exclude a pupil from the school, and is able to decide whether this is on a fixed-period or permanent basis. All exclusions will only be issued on disciplinary grounds. The Head Teacher is able to exclude pupils from the premises where their behaviour is disruptive during lunchtime. All lunchtime exclusions will be counted as half of a school day. The Head Teacher is able to consider a pupil's disruptive behaviour outside of the school premises as grounds for exclusion.

The Head Teacher is responsible for:

- Implementing good levels of discipline to ensure all pupils can benefit from the opportunities provided by education and to minimise potential exclusions.
- Applying the civil standard of proof when establishing the facts in relation to an exclusion.
- Complying with their statutory duties in relation to pupils with SEND when administering the exclusion process, as outlined in the Special Educational Needs and Disabilities (SEND) Policy.
- Considering any contributing factors that are identified after an incident of poor behaviour has occurred, e.g. if a pupil has suffered bereavement, bullying or has a mental health issue.
- Reviewing the effectiveness of exclusions as a sanction, e.g. if a pupil has received multiple exclusions or is approaching the legal limit for exclusions in an academic year.

- Considering what extra support may be needed to identify and address the needs of individual pupils, particularly those with SEND, eligible for FSM, LAC and those from certain ethnic groups.
- Ensuring any decision to exclude is lawful, rational, reasonable, fair and proportionate.
- Complying with the requirements of the Equality Act 2010 when deciding whether to exclude a pupil.
- Ensuring they have considered their legal duty of care when sending a pupil home following an exclusion.
- Making the decision to exclude based on the evidence available at the time, regardless of any police investigation and/or criminal proceedings.
- Notifying a pupil's parents without delay where the decision is taken to exclude the pupil, including the days on which the parents must ensure the pupil is not present in a public place at any time during school hours, as well as any other necessary information statutorily required.
- Notifying the Governing Board and LA of their decision to exclude a pupil where appropriate, as well as the pupil's home authority if required.
- Notifying the Governing Board once per term of any exclusions not notified.
- Organising suitable work for excluded pupils where alternative provision cannot be arranged.

The Head Teacher will immediately provide the following information, in writing, to the parents of an excluded pupil:

- The reason(s) for the exclusion
- The length of a fixed-term exclusion or, for a permanent exclusion, the fact that it is permanent
- Information about parents' right to make representations about the exclusion to the Governing 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 Head Teacher will also notify parents by the end of the afternoon session on the day their child is excluded that for the first 5 school days of an exclusion, or until the start date of any alternative provision where this is earlier, parents are legally required to ensure that their child is not present in a public place during school hours without a good reason.

Parents may be given a fixed penalty notice or prosecuted if they fail to do this. If alternative provision is being arranged, the following information will be included when notifying parents of an exclusion:

- The start date for any provision of full-time education that has been arranged
- The start and finish times of any such provision, including the times for morning and afternoon sessions, where relevant
- The address at which the provision will take place
- Any information required by the pupil to identify the person they should report to on the first day

Where this information on alternative provision is not reasonably ascertainable by the end of the afternoon session, it may be provided in a subsequent notice, but it will be provided no later than 48 hours before the provision is due to start. The only exception to this is where alternative provision is to be provided before the sixth day of an exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent.

The Head Teacher 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 Head Teacher will also immediately inform the pupil's 'home authority' of the exclusion and the reason(s) for it without delay. For all other exclusions, the Head Teacher will notify the Governing Body and LA once a term.

### The Governing Body

Responsibilities regarding exclusions is delegated to an exclusion panel, consisting of at least 3 governors from Mayflower Primary School. The panel has a duty to consider the reinstatement of an excluded pupil (see section 6). Where a panel of 3 governors from Mayflower Primary School, cannot be convened by the required time, the school may utilise external school governors from schools we have close links to (CHCC/DGE). If it is not practicable for a sufficient number of governors to consider the decision before the examination, a smaller sub-committee will consider the exclusion and decide whether or not to reinstate the pupil.

The Governing Body is responsible for:

- Providing information to the Secretary of State and LA about any exclusions within the last 12 months.
- At Mayflower Primary School, this will be augmented by the Head Teacher's Report to Governors, which is published on a termly basis
- Considering parents' representations about exclusions within 15 school days of receiving notice if the appropriate requirements are met.
- Where an exclusion would result in a pupil missing a public examination or test, considering the exclusion before this date.
- Considering whether it would be appropriate for a pupil to be permitted onto the school premises to sit the public examination or test.
- Arranging the representation meeting at a time and date convenient to all parties, but in compliance with the statutory time limits.
- Adhering to its responsibilities to consider the reinstatement of pupils.
- Considering the interests and circumstances of the excluded pupil, including the circumstances in which they were excluded, and have due regard to the interests of others at the school.
- Using the civil standard of proof (based on the 'balance of probabilities', it is more than likely that the fact is true) when establishing the facts relating to an exclusion.
- Ensuring clear minutes are taken of the representation meeting.
- Noting the outcome of the representation meeting on the pupil's education record, along with copies of relevant papers for future reference.
- Notifying the pupil's parents, the Head Teacher and LA of its decision and the reasons for it, without delay.
- Where appropriate, informing parents of where to apply for an independent review panel.
- Informing parents of relevant sources of information.
- Ensuring a pupil's name is removed from the school admissions register, where appropriate.
- Reconvening within 10 school days to reconsider reinstatement of a pupil where directed to do so by the exclusions review panel

## The Local Authority

- Having due regard to the relevant statutory guidance when carrying out its duties in relation to the education of Looked After Child (LAC).
- Arranging suitable full-time education for any pupil of compulsory school age excluded permanently, in coordination with the school.
- Reviewing and reassessing pupils' needs in consultation with their parents where they have an EHC plan and are excluded permanently, with a view to identifying a new placement.
- Arranging for an independent review panel hearing to review the decision of the Governing Body not to reinstate a permanently excluded pupil where required.
- Arranging the hearing without delay at a time, date and venue convenient for all parties.
- Ensuring the independent review panel consists of three or five members as appropriate, which represent the required categories.
- Appointing a clerk to provide advice to the panel and parties to the review on procedure, law and statutory guidance on exclusions.
- Ensuring all panel members and the clerk have received training within the two years prior to the date of the review.
- If requested by parents, appointing a SEND expert to attend the panel and covering the associated costs of this appointment.

For permanent exclusions, the LA is responsible for arranging suitable full-time education to begin no later than the sixth day of the exclusion.

### *Considering the Reinstatement of a Pupil*

The exclusion panel of Mayflower Primary School 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, the exclusion panel 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 exclusion panel will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the Chair of the Governing Board (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. In reaching a decision, the exclusion panel will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the Head Teacher followed their legal duties. They will decide whether or not a fact is true 'on the balance of probabilities', which differs from the criminal standard of 'beyond reasonable doubt', as well as any evidence that was presented in relation to the decision to exclude. Minutes will be taken of the meeting, and a record of evidence considered kept. The outcome will also be recorded on the pupil's educational record.

The exclusion panel will notify, in writing, the Head Teacher, parents and the LA of its decision, along with reasons for its decision, without delay. Where an exclusion is permanent, the exclusion panel'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
- 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.

## *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 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 the Mayflower Exclusion Panel, of its decision to not reinstate a pupil.

A panel of no less than 3 members will be constituted with representatives from each of the categories below.

The panel may consist of:

- A 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 Head Teachers during this time
- Serving Head Teachers or individuals who have been a Head Teacher within the last 5 years

A person may not serve as a member of a review panel if they:

- Are a member of the Governing Body of the excluding school
- Are the Head Teacher of the excluding school, or have held this position in the last 5 years
- Are an employee of the Governing Body, of the excluding school (unless they are employed as a Head Teacher at another school)
- Have, or at any time have had, any connection with the 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.

### *School Registers*

A pupil's name will be removed from the school admissions register if:

- 15 school days have passed since the parents were notified of the exclusion panel's decision to not reinstate the pupil and no application has been made for an independent review panel, or
- The parents have stated in writing that they will not be applying for an independent review panel

Where an application for an independent review has been made, the Governing Board will wait until that review has concluded before removing a pupil's name from the register. Where alternative provision has been made for an excluded pupil and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register. Where excluded pupils are not attending alternative provision, code E (absent) will be used.

### *Returning from a Fixed-Term Exclusion*

Following a fixed-term exclusion, a re-integration meeting will be held involving the pupil, parents, a member of senior staff and other staff, where appropriate.

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

- Agreeing a behaviour contract
- Internal isolation
- Staged return
- Re-integration plan
- Designated re-integration lead (such as the SENDCo, Nurture Lead)
- Risk assessment

### *Monitoring Arrangements*

The SENDCo, Nurture Lead, and Attendance Officer monitors the number of exclusions every term and reports back to the Head Teacher. The Head Teacher reports termly to the governors regarding the number of exclusions. They also liaise with the local authority to ensure suitable full-time education for excluded pupils.

This policy will be reviewed by the head teacher every year. At every review, the policy will be shared with the Governing Body.

#### *Links with other Policies*

This exclusions policy is linked to our:

- Positive Behaviour Management Policy
- SEND policy and information report

#### *Independent Review Panel Training*

The Head Teacher, Link Governor, Clerk to the Governing Body and Chair of the Governing Body will ensure that appropriate training is available to all governors. The NGA skills audit is administered on an annual basis, and this helps to ensure that governors who have the right training are deployed to the right roles. All training is provided by Leicester City Council, and no charge will be levied for governor attendance.