

# FAIRFIELD HIGH SCHOOL FOR GIRLS



## Exclusions Policy

*"Excellence in a Caring Environment"*

## **Introduction**

The Governors of Fairfield High School for Girls have stated that they consider that the use of the Headteacher's power to exclude from school can be essential for the purposes of establishing and maintaining order and discipline. They believe that its use should be reasonable and proportionate. Within these powers, they support the Headteacher in using his discretion in the exercise of these powers.

Positive discipline in Fairfield High School for Girls is essential to ensure that all pupils can benefit from the opportunities provided by education. However, fixed term or permanent exclusion should only be used as a last resort, in response to a serious breach, or persistent breaches, of our policy for Outstanding Conduct and Behaviour; and where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

The decision to exclude a pupil must be lawful, reasonable and fair. Fairfield High School for Girls should give particular consideration to the fair treatment of pupils from groups who are vulnerable to exclusion.

All children have a right to an education. Fairfield High School for Girls should take reasonable steps to set and mark work for pupils during the first five school days of an exclusion, and alternative provision must be arranged from the sixth day.

## **Purpose**

This policy document is intended to give a clear indication to staff, parents and pupils the kinds of circumstances within which the Headteacher will use his powers to exclude and the procedures that will be followed in exercising them. Governors will rely on this in reviewing the actions of the Headteacher in excluding pupils.

## **The Headteacher's power to exclude**

Only the Headteacher of Fairfield High School for Girls can exclude a pupil and this must be on disciplinary grounds. A pupil may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or permanently. A fixed term exclusion does not have to be for a continuous period. In exceptional cases, usually where further evidence has come to light, a fixed term exclusion may be extended or converted to a permanent exclusion.

The behaviour of pupils outside school can be considered as grounds for exclusion. This will be a matter of judgement for the Headteacher.

The Headteacher may withdraw an exclusion that has not been reviewed by the Governing Body.

The Headteacher must take into account his legal duty of care when sending a pupil home following an exclusion.

When establishing the facts in relation to an exclusion decision the Headteacher must apply the civil standard of proof, i.e. 'on the balance of probabilities' it is more likely than not that a fact is true, rather than the criminal standard of 'beyond reasonable doubt'.

It is unlawful to exclude or to increase the severity of an exclusion for a non-disciplinary reason. For example, it would be unlawful to exclude a pupil simply because they have additional needs or a disability that the school feels it is unable to meet, or for a reason such as: academic attainment/ability; the action of a pupil's parents; or the failure of a pupil to meet specific conditions before they are reinstated. Pupils who repeatedly disobey their teachers' instructions could, however, be subject to exclusion.

Fairfield High School for Girls has the power to direct a pupil off-site for education to improve her behaviour. A pupil can also transfer to another school as part of a 'managed move' where this occurs with the consent of the parties involved, including the parents. However, the threat of exclusion must never be used to influence parents to remove their child from the school.

There will be occasions where it is more appropriate to internally isolate a pupil in school as an alternative to a fixed term exclusion. As with exclusion, only the Headteacher can make this decision. Internal isolation, as an alternative to exclusion, does not fall into the realms of appeals outlined in this policy. Any issues related to internal isolation should be taken up with the Headteacher as a concern in the first instance.

### **Statutory guidance on factors that a Headteacher should take into account before taking the decision to exclude**

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

- In response to a serious breach, or persistent breaches, of the school's Outstanding Conduct and 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.

The decision on whether to exclude is for the Headteacher to take. Where practical, the Headteacher should give pupils an opportunity to present their case before taking the decision to exclude.

Whilst an exclusion may still be an appropriate sanction, the Headteacher should take account of any contributing factors that are identified after an incident of poor behaviour has occurred. For example, where it comes to light that a pupil has suffered bereavement, has mental health issues or has been subject to bullying.

### **The Headteacher's duty to inform parties about an exclusion**

Whenever the Headteacher excludes a pupil they must, without delay, notify parents of the period of the exclusion and the reasons for it.

The Headteacher must also, without delay, provide parents with the following information in writing:

- The reasons for the exclusion;
- The period of a fixed term exclusion or, for a permanent exclusion, the fact that it is permanent;
- Parents' right to make representations about the exclusion to the Governing Body and how the pupil may be involved in this;
- How any representations should be made; and
- Where there is a legal requirement for the Governing Body to consider the exclusion, that parents have a right to attend a meeting, be represented at this meeting (at their own expense) and to bring a friend.

Written notification of the information can be provided by: delivering it directly to the parents; leaving it at their last known address; or by posting it to this address.

Where an excluded pupil is of compulsory school age the Headteacher must also notify parents without delay:

- That 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.

If alternative provision is being arranged, then the following information must be included with this notice where it can reasonably be found out within the timescale:

- The start date for any provision of full-time education that has been arranged for the pupil during the exclusion;
- 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; and
- Any information required by the pupil to identify the person she 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 must be provided without delay and 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 information above must be provided in writing but can be provided by any effective method, such as an email or text. Where information is sent home with a pupil, the Headteacher should consider sending a duplicate copy by an alternative method or confirming that the information has been received.

When notifying parents about an exclusion, the Headteacher should set out what arrangements have been made to enable the pupil to continue her education prior to the start of any alternative provision or the pupil's return to school.

Parents must be informed where a fixed term exclusion has been extended or converted to a permanent exclusion. In such cases the Headteacher must write again to the parents explaining the reasons for the change and providing any additional information.

### **The Headteacher's duty to inform the Governing Body and the Local Authority about an exclusion**

The Headteacher must, without delay, notify a representative of the Governing Body and the Local Authority of:

- A permanent exclusion (including where a fixed term exclusion is made permanent);
- Exclusions which would result in the pupil being excluded for more than five school days (or more than ten lunchtimes) in a term; and
- Exclusions which would result in the pupil missing a public examination.

For all other exclusions the Headteacher must notify the Governing Body once a term.

Notifications must include the reasons for the exclusion and the duration of any fixed term exclusion.

For a permanent exclusion, if the pupil lives outside the Local Authority in which the school is located, the Headteacher must also advise the pupil's 'home authority' of the exclusion without delay.

## **The Governing Body's duty to arrange education for excluded pupils**

For a fixed term exclusion of more than five school days, the Governing Body must arrange suitable full-time education for any pupil of compulsory school age. This provision must begin no later than the sixth day of the exclusion.

For permanent exclusions, the Local Authority must arrange suitable full-time education for the pupil to begin no later than the sixth day of the exclusion. This will be the pupils' 'home authority' in cases where the school is located within a different Local Authority.

Provision does not have to be arranged by either the school or the Local Authority for pupils in the final year of compulsory education who do not have any further public examinations to sit.

## **Statutory guidance on the education of pupils prior to the sixth day of an exclusion**

Fairfield High School for Girls should take reasonable steps to set and mark work for pupils. Work that is provided should be accessible and achievable by pupils outside of school.

## **The Governing Body's duty to consider an exclusion**

The Governing Body has a duty to consider parents' representations about an exclusion. The requirements on a Governing Body to consider an exclusion depend upon a number of factors (these requirements are illustrated in Annex A).

The Governing Body may delegate their functions with respect to the consideration of an exclusion decision to a designated Pupil Issues sub-committee consisting of at least three Governors.

The Governing Body must 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 day of exclusion to more than 15 in a term; or
- It would result in a pupil missing a public examination.

If requested to do so by parents, the Governing Body must consider the reinstatement of an excluded pupil within 50 school days of receiving the notice of the exclusion if a pupil would be excluded from school for more than five school days, but not more than 15, in a single term.

Where an exclusion would result in a pupil missing a public examination there is a further requirement for a Governing Body, so far as is reasonably practicable, to consider the exclusion before the date of the examination or test. If this is not practicable, the Chair of Governors may consider the exclusion independently and decide whether or not to reinstate the pupil. These are the only circumstances in which the Chair can review an exclusion decision alone. In such cases parents still have the right to make representations to the Governing Body and must be made aware of this right.

The following parties must be invited to a meeting of the Governing Body, or the delegated sub-committee, and allowed to make representations:

- Parents; and
- The Headteacher.

A Governing Body must make reasonable endeavours to arrange the meeting for a date and time that is convenient to all parties, but in compliance with the relevant statutory time limits. However, its decision will not be invalid simply on the grounds that it was not made within these time limits.

In the case of a fixed term exclusion which does not bring the pupil's total number of days of exclusion to more than five in a term, the Governing Body must consider any representations made by parents, but it cannot direct reinstatement and is not required to arrange a meeting with parents.

### **Statutory guidance to Governing Bodies in preparing for the consideration of an exclusion decision**

Where the Governing Body is legally required to consider the decision of a Headteacher to exclude a pupil they should:

- Not discuss the exclusion with any party outside of the meeting;
- Ask for any written evidence in advance of the meeting (including witness statements and other relevant information held by the school, such as those relating to a pupil's SEN).
- Where possible, circulate any written evidence and information, including a list of those who will be present, to all parties at least five school days in advance of the meeting;
- Allow parents and pupils to be accompanied by a friend or representative;
- Have regard to their duty to make reasonable adjustments for people who use the school and consider what reasonable adjustments should be made to support the attendance and contribution of parties at the meeting (for example where a parent or pupil has a disability in relation to mobility or communication that impacts upon their ability to attend the meeting or to make representations); and
- Identify the steps they will take to enable and encourage the excluded pupil to attend the meeting and speak on her own behalf (such as providing accessible information or allowing them to bring a friend), taking into account the pupil's age and understanding; or how the excluded pupil may feed in her views by other means if attending the exclusion meeting is not possible.

### **Statutory guidance to Governing Bodies on exclusions that would result in a pupil missing a public examination**

Whilst there is no automatic right for an excluded pupil to take an examination or test on the school premises, the Governing Body should consider whether it would be appropriate to exercise their discretion to allow an excluded pupil on the premises for the sole purpose of taking the examination or test.

### **The requirements on a Governing Body when considering the reinstatement of an excluded pupil**

Where the Governing Body is legally required to consider an exclusion they must consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and people working at the school.

The Governing Body must also consider any representations made by:

- Parents; and
- The Headteacher.

When establishing the facts in relation to an exclusion decision the Governing Body must apply the civil standard of proof, i.e. 'on the balance of probabilities' it is more likely than not that a fact is true rather than the criminal standard of 'beyond reasonable doubt'. In the light of their consideration, the Governing Body can either:

- Uphold an exclusion; or
- Direct reinstatement of the pupil immediately or on a particular date.

Where reinstatement is not practical because for example, the pupil has already returned to school following the expiry of a fixed term exclusion or the parents make clear they do not want their child reinstated, the Governing Body must, in any event, consider whether the Headteacher's decision to exclude the child was justified based on the evidence.

### **Statutory guidance to Governing Bodies on the consideration of an exclusion decision**

The Governing Body should identify the steps they will take to ensure all parties will be supported to participate in their consideration and have their views properly heard.

The Governing Body should ensure that clear minutes are taken 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 Governing Body should ask all parties to withdraw before making a decision. Where present, a clerk may stay to help the Governing Body by reference to his/her notes of the meeting and with the wording of the decision letter.

In reaching a decision on whether or not to reinstate a pupil, the Governing Body should consider whether the decision to exclude the pupil was lawful, reasonable and procedurally fair, taking into account of the Headteacher's legal duties.

The Governing Body should note the outcome of their consideration on the pupil's educational record, along with copies of relevant papers for future reference.

### **The Governing Body's duty to notify people after their consideration of an exclusion**

Where legally required to consider an exclusion, the Governing Body must notify parents, the Headteacher and the Local Authority of their decision, and the reasons for their decision, in writing and without delay. Where the pupil resides in a different Local Authority from the one that maintains the school, the Governing Body must also inform the pupil's 'home authority'.

The Governing Body may provide this information by: delivering it directly to parents; leaving it at their last known address; or by posting it to this address.

Notice is deemed to have been given on the same day if it is delivered directly, or on the second working day after posting if it is sent by first class mail.

## **Statutory guidance to Governing Bodies on providing information to parents following their consideration of an exclusion**

The Governing Body should set out the reasons for their decision in sufficient detail to enable all parties to understand why the decision was made.

### **The Headteacher's duty to remove a permanently excluded pupil's name from the school register**

The Headteacher must remove a pupil's name from the school admissions register if:

- 15 school days have passed since the parents were notified of the Governing Body's decision to uphold a permanent exclusion and no application has been made for an independent review panel; or
- The parents have stated in writing that they will not be applying for an independent review panel.

Where an application for an independent review panel has been made within 15 school days, the Headteacher must wait until the review has been determined, or abandoned, before removing a pupil's name from the register.

## **Statutory guidance to school's on marking attendance registers following exclusion**

Whilst an excluded pupil's name remains on a school's admissions register the pupil should be marked using the appropriate attendance code. Where alternative provision has been made that meets the requirements of the pupil registration regulations, and the pupil attends it, an appropriate attendance code, such as Code B (Education Off-site) or Code D (Dual Registration), should be used. Where pupils are not attending alternative provision they should be marked absent using Code E.

### **Duty to arrange an independent review panel**

#### Arranging a date and venue

The role of a panel is to review the Governing Body's decision not to reinstate a permanently excluded pupil. In reviewing the decision, the panel must consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and people working at the school.

The panel must apply the civil standard of proof, (i.e. 'on the balance of probabilities' it is more likely than not that a fact is true) rather than the criminal standard of 'beyond reasonable doubt'.

Following its review, the panel can decide to:

- Uphold the exclusion decision;
- Recommend that the Governing Body reconsiders their decision, or
- Direct that the Governing Body considers the exclusion again.

However, the Department for Education clearly states that an independent panel does not have the power to direct a Governing Body to reinstate an excluded pupil.

More details on independent review panels are available on request.

Any such appeal will be dealt with in line with the latest educational legislation.

### **Parenting Contracts/Parenting Orders**

In accordance with government guidance, the school will consider the use of a Parenting Contract or applying for a Parenting Order, where a pupil has had more than two fixed term exclusions.

**Annex A – A Summary of the Governing Body’s Duties to Review the Headteacher’s Exclusion Decision**

