

SACRED HEART HIGH SCHOOL



EXCLUSIONS POLICY

JULY 2021

To be reviewed June 2022

*This Policy should be read in conjunction with
all other Sacred Heart High School Policies*

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1 INTRODUCTION

Our ethos is underpinned by the charism of the Society of the Sacred Heart which informs our whole school vision and mission. Today we are a community of faith and learning, based on the Gospel of Jesus Christ, His values and teachings. We seek to constantly improve everything we do so that we can make a difference for the young women who will shape the society of the future.

Above all else, this community works together to bring one another to an awareness of the fullness and meaning of their life, rooted in the love of God. It is

- a place which has the human person at the centre – mind, heart, body and soul;
- where every member of the community is recognised, acknowledged and rewarded for their contributions;
- a place which inspires and challenges everyone to be the best they can be;
- a nurturing environment for all - pupils and staff - rooted in love where morale is positive; people are joyful and have the courage to be honest, to meet challenges, to take risks and make mistakes;

The school has a duty of care to ensure all pupils are nurtured and cared for and acknowledges that all pupils have a right to receive an excellent education which provides a rich menu of experiences and learning within and beyond the classroom, leading to high levels of success academically and personally and increasing their life chances as adults.

We recognise that pupils come to us with a range of experiences, some of which will impact on their mental health and well-being, their behaviour and self-esteem. We are committed to ensuring that all pupils have the support they need in order to be successful both academically and personally.

The school is committed to working with those pupils who have difficulty managing their behaviour to ensure they 'enjoy their years at the school and leave with a sense of their own giftedness and achievement, equipped to face the future.' (School Mission Statement)

This Policy should be read in conjunction with the relevant statutory guidance and the School's Behaviour for Learning & Living in a Sacred Heart Community ('Behaviour Policy') which outlines the types of behaviour which could lead to a fixed term or permanent exclusion.

2 LEGAL CONTEXT FOR EXCLUSIONS

2.1 Statutory Guidance

This policy endeavours to ensure that our exclusion procedures conform with statutory guidance issued by the Department for Education (DfE) in 2012 and updated in 2017.¹

It should also be read in conjunction with our Behaviour Policy, Drugs Policy and Anti-Bullying Policies.

Good discipline in schools is essential to ensure that all pupils can benefit from the opportunities provided by education. The Government supports head teachers in using exclusion (fixed-period or permanent) as a sanction where it is warranted. However,

¹ Department for Education – *Exclusion from Maintained Schools, Academies and Pupil Referral Units in England – Statutory Guidance for those with Legal Responsibilities in Relation to Exclusion* (2017). Available online at <https://www.gov.uk/government/publications/school-exclusion>

permanent exclusion should only be used as a last resort and a decision to exclude a pupil permanently will only be taken:

- in response to serious or persistent breaches of the school's Behaviour Policy; and
- where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school

2.2 Fixed Term and Permanent Exclusions

Only the Head Teacher or, in her absence, the Associate of School, has the power to exclude a pupil from school and this must be on disciplinary grounds.

A pupil maybe excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or permanently. A fixed period exclusion does not have to be for a continuous period and can be for parts of the school day, such as lunchtime exclusions which must be recorded and count as half a school day for statistical purposes.

From the sixth day of an exclusion, the school (or local authority, in the event of a permanent exclusion) must arrange suitable full-time education for any pupil of compulsory school age. Where a pupil receives consecutive fixed-period exclusions, these are regarded as a cumulative period of exclusion for the purposes of this duty.

The law does not allow for extending a fixed period exclusion or 'converting' a fixed period exclusion into a permanent exclusion. In exceptional cases, usually where further evidence has come to light, a further fixed-period exclusion may be issued to begin immediately after the first period ends; or a permanent exclusion may be issued to begin immediately after the end of the fixed period.

The behaviour of a pupil outside school can be considered grounds for an exclusion.

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

Any decision of a school, including exclusion, must be made in line with the principles of administrative law and must be lawful; rational; reasonable; fair; and proportionate.

When establishing the facts in relation to an exclusion, the Head Teacher must apply the civil standard of proof, i.e. 'on the balance of probabilities', it is more likely than not to be true. This is a lower threshold than the criminal standard of 'beyond reasonable doubt'.

Under the Equality Act (2010), academies must not discriminate against, harass or victimise pupils because of their: gender, race, disability, social background, religion or belief, or sexual orientation; because of a pregnancy / maternity; or because of a gender reassignment. For children with a disability, this includes a duty to make reasonable adjustments to policies and practices.

The Head Teacher and Governing Body must comply with their statutory duties in relation to Special Educational Needs (SEN) when administering the exclusion process. This includes having regard to the SEND Code of Practice (2015).

It is unlawful to exclude 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, such as to attend a reintegration meeting.

'Informal' or 'unofficial' exclusions, such as sending a pupil home 'to cool off', are unlawful, regardless of whether they occur with the agreement of parents or carers.

3 RESPONSIBILITIES OF THE HEADTEACHER

Only the Head Teacher or, in her absence, the Associate Headteacher has the power to exclude a pupil from school.

In considering the exclusion of a pupil, the Head Teacher should ensure that the following steps are taken:

- a thorough investigation of the incident(s), with a written report;
- consideration of all relevant facts and firm evidence to support the allegations;
- consideration of all relevant policies, including the Behaviour Policy;
- consideration of whether an incident appeared to be provoked;
- ensuring all pupils involved are able to provide witness statements and/or their version of events;
- due regard to the Equality Act (2010).

Permanent exclusion will only be used as a last resort. Before taking the decision to permanently exclude a pupil, the Head Teacher will have regard to all the available evidence, including the range of support strategies that have been used, as outlined in the school Behaviour Policy.

4 DUTY TO INFORM THE PARTIES

4.1 Informing Parents

Whenever the Head Teacher excludes a pupil, they must, without delay, notify parents of the period of the exclusion and the reason(s) for it.

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

- the reason(s) 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 that meeting (at their own expense) and to bring a friend

Where an excluded pupil is of compulsory school age, the Head Teacher must also notify the pupil's parents of the days on which they must ensure that the pupil is not present in a public place at any time during school hours or risk a fixed penalty notice or face prosecution.

4.2 Informing the Governing Body and Local Authority

The Head Teacher must, without delay, notify the Governing Body and the Local Authority of:

- Any permanent exclusion (including where a fixed-period exclusion is followed by a decision to permanently exclude the pupil);
- Any exclusion which would result in the pupil being excluded for a total of more than 5 school days (or more than 10 lunchtimes) in a term; and

- Any exclusion which would result in the pupil missing a public examination or national curriculum test.

The Head Teacher must also notify the Governing Body and Local Authority once per term of any other exclusions not already notified.

Notifications must include the reason(s) for the exclusion and the duration of any fixed-period exclusion.

For a permanent exclusion, the Head Teacher must also inform the pupil's 'home authority' if the pupil lives outside of the school's local authority area.

5 REVIEW OF THE DECISION TO EXCLUDE

5.1 Duties of the Governing Body

The Governing Body has a duty to consider parents' representations about an exclusion.

The Governing Body must consider the reinstatement of an excluded pupil within 15 school days of receiving notice of the exclusion if:

- the exclusion is permanent;
- it is a fixed-period exclusion which would bring the pupil's total number of school days of exclusion to more than 15 in a term; or
- it would result in a pupil missing a public examination or national curriculum test.

For fixed-period exclusions of more than 5 but less than 15 school days, if the parents make representations, the Governing Body must consider within 50 school days of receiving the notice of exclusion whether the pupil should be reinstated. In the absence of any representations from the parents, the Governing Body is not required to meet and cannot direct the reinstatement of the pupil.

For fixed-period exclusions of 5 or fewer days, the Governing Body must consider any representations made by parents but does not have the power to reinstate the pupil.

Where the exclusion would result in a pupil missing a public examination or national curriculum test, the Governing Body must, so far as is reasonably practicable, consider the exclusion before the date of the exam. If this is not possible, the exclusion may be considered by a smaller sub-committee if the academy trust's articles of association allow. In such cases, parents must be made aware of their right to make representations to the Governing Body.

See **Appendix 1** for a flow chart summary of the governing body's duties to review the headteacher's exclusion decision. This is included as Annex A of the statutory guidance,

5.2 Meeting of the Governing Body

The following parties must be invited to a meeting of the Governing Body and allowed to make representations:

- parents (and, where requested, a representative or friend);
- the Head Teacher; and
- a representative of the Local Authority (representations may only be made with permission of the Governing Body).

5.3 Decision of the Governing Body

In reaching a decision on whether a pupil should be reinstated, the Governing Body should consider whether the decision to exclude the pupil was lawful, reasonable and

procedurally fair, taking into account the Head Teacher's legal duties and any evidence that was presented to the Governing Body in relation to the decision to exclude.

The Governing Body must notify parents, the Head Teacher and the Local Authority of its decision, and the reasons for it in sufficient detail to enable all parties to understand why the decision was made. This must be done in writing and without delay.

In the case of a permanent exclusion where the Governing Body decides not to reinstate the pupil, the Governing Body's notification must also include:

- the fact that the exclusion is permanent;
- notice of the right of parents to seek a review of the decision by an independent review panel (IRP) including the following information:
 - (a) the date by which an application must be made;
 - (b) where and to whom an application for a review (and any written evidence) should be submitted;
 - (c) 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 SEN are considered to be relevant to the exclusion;
 - (d) that, regardless of whether the excluded pupil has recognised SEN, parents have a right to require the school to appoint a SEN expert to advise the IRP;
 - (e) details of the role of the SEN expert; and
 - (f) that parents may, at their own expense, appoint someone to make written and/or oral representations to the IRP.
- that, in addition to the right to apply for an IRP, if parents believe that there has been unlawful discrimination in relation to the exclusion, then 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 under the Equality Act 2010 should be lodged within 6 months of the date on which the discrimination is alleged to have taken place.
- A link to statutory guidance on exclusions; guidance on making a claim of discrimination and to sources of free and impartial advice that will allow them to make an informed decision on whether and, if so, how to seek a review of the decision to permanently exclude their child.

6 INDEPENDENT REVIEW PANEL

Where a permanent exclusion is upheld by the Governing Body, parents must be informed of their right to seek an independent review of the decision not to reinstate the permanently excluded pupil and the deadline for seeking a review. The legal time frame for an application is:

- within 15 school days of notice being given to the parents by the Governing Body of its decision not to reinstate a permanently excluded pupil; or
- where an application has not been made within this time frame, within 15 school days of the final determination of a claim of discrimination under the Equality Act 2010 in relation to the exclusion.

Any application made outside the legal time frame must be rejected by the school.

If requested by parents, the school must appoint a SEN expert to attend the IRP and must cover the costs of this appointment. Parents have the right to request a SEN expert regardless of whether the school recognises that the pupil has SEN.

The Independent Review Panel (IRP) cannot direct a Governing Body to reinstate a pupil. It may, however:

- 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

An IRP may only quash a Governing Body's decision if it considers that it was flawed when considered in the light of the principles applicable on an application for judicial review.

7 EXCLUSION OF A PUPIL WHO HAS SEN AND/OR DISABILITIES

The SEND Code of Practice (2015) states that schools and colleges should have clear processes to support children and young people, including how they will manage the effect of any disruptive behaviour, so it does not adversely affect other pupils. The Department for Education publishes guidance on managing pupils' mental health and behaviour difficulties in schools.

Statutory guidance (2017) states that early intervention to address underlying causes of disruptive behaviour should include an assessment of whether appropriate provision is in place to support any SEN or disability that a pupil may have. Particular regard should be paid whether disruptive behaviour is an indication of underlying social, emotional and mental health need (SEMH).

In addition to the approaches on early intervention, set out above, the Head Teacher should consider what extra support might be needed to identify and address the needs of pupils from these groups in order to reduce their risk of exclusion.

1. DfE (2016) School Attendance
2. Children's Commissioner (2013) Always Someone Else's Problem: Office of the Children's Commissioner's Report on Illegal Exclusions
3. Ofsted (2014) Schools' Use of Exclusion
4. Adopted Children and Exclusions (2017)
5. Timpson Review of Exclusions (2019)

The school should, as far as possible, and without impacting upon the education of other pupils in the school, avoid permanently excluding any pupil with an Education, Health and Care Plan (EHP) or a looked after child.

8 RELEVANT LEGISLATION AND GUIDANCE

8.1 Relevant legislation and guidance

- Exclusion from Maintained Schools, Academies and Pupil Referral Units in England – Statutory Guidance for those with Legal Responsibilities in Relation to Exclusion (2017)
- Section 51A of the Education Act 2002, as inserted by the Education Act 2011;
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012;
- Sections 100 to 108 of the Education and Inspections Act 2006;

- Statutory Guidance for those with legal responsibilities in relation to exclusion (2017);
- The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007, as amended by Regulations 2014
- SEND Code of Practice: 0-25 years (updated May 2015)
- Special Educational Needs and Disability Regulations 2014 (Part 4)
- School Attendance: Guidance for maintained schools, academies, independent schools and local authorities (November 2016)
- Equality Act 2010

8.2 Temporary Changes to Statutory Guidance due to Covid-19

The statutory guidance on suspensions and permanent exclusions from maintained schools, academies and pupil referral units in England describes the normal procedures that must follow a decision to suspend and permanently exclude on disciplinary grounds. These are subject to the temporary changes made by the “Statutory guidance: changes to the school suspension and permanent exclusion process during the coronavirus (COVID-19) outbreak”, updated 29 June 2021.

Important Dates

All permanent exclusions occurring between 25 September 2020 and 24 September 2021 (inclusive of those dates) are subject to amended arrangements with regards to the use of remote access technology for meetings of governing boards or independent review panels and the deadline for applications for an independent review. Governing boards and independent review panels (IRPs) may be eligible for time extensions in some circumstances.

Meetings relating to permanent exclusions occurring between 25 September 2020 and 24 September 2021 must take place within the normal timescales described in the existing statutory guidance.

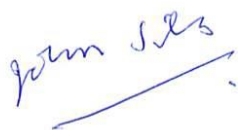
Governing boards and arranging authorities for IRPs should take all reasonable steps to meet the normal deadlines for suspensions and permanent exclusions occurring after 24 September 2020.

10 RATIFICATION

The policy has been approved and ratified by the Headteacher and Chair of Governors and was later ratified by the full governing body on 6 July 2021.



Mrs M Doyle, Headteacher



John Sills, Chair of Governors

APPENDIX1: STATUTORY EXCLUSIONS GUIDANCE ANNEX A: Summary of the governing body’s duties to review the headteachers exclusion decision

