

# ROMAN FIELDS'

## EXCLUSION POLICY



**This policy was revised in January 2017 in consultation with staff, young people, parents and the Management Committee.**

**It was ratified by the Management Committee on 6<sup>th</sup> February 2017**

**REVIEW: This policy will be reviewed in response to legislation updates**

**This policy applies to all sites in which Roman Fields staff operate.**

Roman Fields' Exclusion Policy draws from legislation and guidance as follows:

- The Children Act 1989
- Education Act 1996
- Education Act 2002 and regulations
- Education and Inspections Act 2006 and Regulations
- The Education Regulations 2006
- Behaviour and Discipline in Schools – A Guide for Head teachers and School Staff (2012)
- Working Together: Listening to the voices of children and young people

Roman Fields is an inclusive provision, which seeks to encourage good attitudes to behaviour for learning and to modify poor and inappropriate behaviour by using positive methods of redress. In most cases exclusion will be the last resort after a range of measures have been tried to improve the young person's behaviour. We will explore opportunities to modify behaviour from a range of options including:

- engaging at an early stage with parents/carers
- exploring a change of environment
- placement in an off-site Behaviour for Learning room with RF staff
- setting up a Behaviour Support Plan (BSP) or a Pastoral Support Programme (PSP)
- the engagement of outside agencies and alternative providers
- intervention and the loss of enrichment time
- restorative justice
- counselling

We follow statutory guidelines on exclusions, and the final decision to externally exclude (fixed term exclusion) can be made only by the Head Teacher. Other exclusion-related decisions, including our more common, internal exclusions do not have to be undertaken by the Head Teacher personally, but may be delegated. When deciding to externally exclude a student the Head Teacher will ensure there has been a thorough investigation and that a written record is kept of his actions and those of other staff. A YP (young person) 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 period exclusion does not have to be for a continuous period. In exceptional cases, usually where further evidence has come to light, a fixed period exclusion may be extended or converted to a permanent exclusion.

Any decision of a school, including exclusion, must be made in line with the principles of administrative law, i.e. that it is: lawful (with respect to the legislation relating directly to exclusions and a school's wider legal duties, including the European Convention of Human Rights); rational; reasonable; fair; and proportionate.

When establishing the facts in relation to an exclusion decision the head teacher 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'.

Under the Equality Act 2010 [Equal Opportunity and Diversity Policy] schools must not discriminate against, harass or victimise YPs because of their: sex; race; disability; religion or belief; sexual orientation; because of a pregnancy / maternity; or because of a gender reassignment.

These duties need to be taken into account when deciding whether to exclude an YP. Schools must also ensure that their policies and practices do not discriminate against YPs by unfairly increasing their risk of exclusion. Provisions within the Equality Act allow schools to

take positive action to deal with particular disadvantages affecting one group, where this can be shown to be a proportionate way of dealing with such issues.

The Head teacher and Senior Team will take account of their statutory duties in relation to special educational needs (SEN) when administering the exclusion process. This includes having regard to the SEN Code of Practice.

It is unlawful to exclude or to increase the severity of exclusion for a non-disciplinary reason. For example, it would be unlawful to exclude a YP 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 YP's parents; or the failure of a YP to meet specific conditions before they are reinstated.

RF will on occasion discuss with parents/carers any concern that they have about a YP's behaviour. In these rare occasions, a young person may be educated either off site at Tenzing Road, or at a library/care home during this time they will be supervised at all times by a member of RF staff, these are therefore classed **internal** exclusions because the youngster is receiving their education, all be it off-site. On the rare occasion when a youngster refuses to access the educational opportunities RF has to offer, the decision may be taken to look for an alternative location and educate the individual concerned there on either a temporary or more permanent basis, with one to one teaching provided by RF. All exclusions are formally recorded.

The decision on whether to exclude is for the Head teacher to take. However, where practical; Head teachers should give the young people an opportunity to present their case before taking the decision to exclude.

Whilst exclusion may still be an appropriate sanction, head teachers 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 young person has suffered bereavement has mental health issues or has been subject to bullying.

**There are two main types of exclusion: Fixed Term and Permanent.**

The length of **Fixed Term Exclusion** will be decided by the Head Teacher with reference to:

- the disciplinary record
- information contained in individual statements &/or EHC plans
- the nature of the offence
- the home background
- exam obligations

The following incidents or offences will normally lead to fixed term exclusion:

- persistent disruption
- continual refusal to comply with the Behaviour Management sanctions
- deliberate damage or vandalism
- theft
- physical violence towards another YP or member of staff
- persistent bullying or a single case of extreme bullying
- bringing an offensive weapon into the provision
- Possession of illegal substances.

The following factors will be considered before the decision to exclude:

- ensuring that the YP is invited to state their case at all stages of the process
- ensuring that a thorough investigation has been carried out
- consideration of all the evidence available to support the allegations, taking account of the:
- provision's behaviour and equal opportunities policies
- whether the incident was provoked, e.g. by bullying or by racial or sexual harassment

### **Procedures for investigating incidents**

Incidents will normally be investigated by the senior teacher or the behaviour lead; however this will not always be the case.

When investigating any incident the member of staff responsible will ensure that the following protocols are adhered to:

- Statements will be taken from witnesses to the incident
- If necessary, photos or CCTV footage of the incident will be viewed as part of the investigation
- All statements taken from YPs will be signed and dated to confirm that they agree with and are satisfied with the content
- Once the investigation has been completed and if exclusion is felt to be appropriate the staff member investigating will make a recommendation to the Head Teacher.

**The standard of proof to be applied is the balance of probabilities, i.e. if it is more probable than not, that the YP did what he or she is alleged to have done, the Head Teacher may exclude.**

Where a student is excluded the provision will:

- inform parents/carers immediately
- confirm the decision, details and expectations in writing within 24 hours
- notify parents/carers of their responsibility to ensure that their child is not present in a public place in school hours during the first five days of any fixed period exclusion (a fixed penalty notice of £50 can be imposed)
- Undertake to set and mark work for the YP for up to five days. If a longer exclusion is deemed necessary arrangements will be made to educate the YP at home or in an alternative suitable environment.
- consider what support will best help with the YP's reintegration into the provision at the end of the exclusion

### **Penalty Notice for excluded young people**

During the initial period (up to five days) of exclusion, the parents of the excluded YP must ensure that he or she is not present in a public place during normal school hours without reasonable justification. This applies whether or not the young person is in the company of the parent. A failure to comply with this requirement is an offence. Parents can be given a fixed penalty notice of £50. The penalty payable increases to £100 if unpaid after 28 calendar days, and if this is still unpaid after 42 days the parent will be subject to prosecution for the original offence.

### **Reintegration**

After fixed term exclusion the YP must attend a re-admission meeting with their parents/ Carer and a member of the Senior Leadership Team, unusually the Head teacher. The terms of re-admission are discussed and agreed at these meetings

The purpose of the meeting is to assist the reintegration of the YP and promote the improvement of his or her behaviour. It provides an opportunity to:

- a) Emphasise the importance of parents working with the provision to take joint responsibility for their child's behaviour
- b) Discuss how behaviour problems can be addressed
- c) Explore wider issues and any circumstances that may be affecting their child's behaviour
- d) Reach agreement on how the YP education should continue
- e) Create a useful forum to consider with parents/ carers whether a contract is necessary

Under recent legislation we now have the authority to screen and search young people for prohibited items such as weapons, illegal drugs, alcohol or stolen goods. We will consider whether or not to inform the police where a criminal offence may have taken place. Contacting the Young Offending Team and/or social workers would be likely however.

**The Role of Management Committee – Exclusion Process and Timescale (please note we will only exclude for a maximum of 5 days for one incident) the rules around exclusions up to a maximum of 5 days are as follows.**

On exclusions of five days or less:

- Committee members will consider any representation from parents but do not have to meet them in person
- Committee members have no power to re-instate or overturn a decision (but can place their findings on a YP record)
- if a public exam will be missed – the group should convene immediately if requested (the Chair of Management Committee may consider the issue alone)
- the Head Teacher will report all fixed term exclusion details to Management Committee and LA once a term (name, length, reason, age, gender, ethnicity, and whether student has SEN or is in LA care)

Sometimes a young person's poor behaviour will lead to a period of exclusion from the exclusion. We try to use them sparingly, usually only for serious breaches of provision policy or law.

The Head may exclude an YP for one or more fixed periods not exceeding 45 days in any one school year.

### **Permanent exclusion**

When all other reasonable steps have been taken and it's our judgement that allowing the child to remain in the Provision would be seriously detrimental to the welfare of others, then an YP may be permanently excluded.

If the decision is made to permanently exclude, we will inform the young person's parents/carers immediately. We will explain:

- why the YP is to be permanently excluded
- the steps that have been taken to try to avoid it
- arrangements to allow the young person to continue their education

We will also notify parents/carers of their Right of Appeal, which will be overseen by an Independent Appeal Panel.

### **Communication about Exclusion**

It is the head teacher's duty to inform parents/carers about exclusion

Whenever a head teacher excludes a young person he must, without delay, notify parents/carers of the period of the exclusion and the reasons for it.

The provision will, without delay, provide parents/carers with the following information in writing:

- The reasons for the exclusion,
- The period of a fixed period exclusion or, for a permanent exclusion, the fact that it is permanent,
- Parents'/ carers' right to make representations about the exclusion to the management committee and how the young person may be involved in this,
- How any representations should be made, and

- Where there is a legal requirement for the management committee to consider the exclusion, that parents/carers have a right to attend a meeting, be represented at this meeting (at their own expense) and to bring a friend.

This written notification of the information can be provided by:

- delivering it directly to the parents/carers/ SEN Officer;
- leaving it at their last known address;
- by posting it to last known address.

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

When notifying parents about exclusion, the head teacher should set out what arrangements have been made to enable the young person to continue his / her education prior to the start of any alternative provision or the young person's return to school.

Head teachers should ensure that information provided to parents is clear and easily understood. Where the parents' first language is not English consideration should be given, where practical, to translating the letter or taking additional steps to ensure that the details of the exclusion and parents' right to make representations to the governing body have been understood.

### **Free and Impartial Information to Support Parents/Carers**

When notifying parents about exclusion, head teachers should draw attention to relevant sources of free and impartial information.

This information should include:

- A link to this statutory guidance on exclusions: Exclusion guidance;
- A link to the Coram Children's Legal Centre: [www.childrenslegalcentre.com](http://www.childrenslegalcentre.com) 08088 020 008; and
- Where considered relevant by the head teacher, links to local services, such as Traveller Education Services or the local parent partnership ([www.parentpartnership.org.uk](http://www.parentpartnership.org.uk)).

### **Informing the Placing Authority and other Agencies**

The head teacher must, without delay, notify the local authority of:

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

For all other exclusions the head teacher must notify the local authority and management committee. Notifications must include the reasons for the exclusion and the duration of any fixed period exclusion.

### **The Role of Local Authorities in Permanent Exclusions**

For permanent exclusions, the local authority must arrange suitable full-time education for the young person to begin no later than the sixth day of the exclusion. This will be in the YP's 'home authority' in cases where the school is maintained by (or located within) a different local authority.

As our YPs all have a statement of SEN, or EHCP the local authority must ensure that an appropriate full-time placement is identified in consultation with the parents, who retain their rights to express a preference for a school that they wish their child to attend, or make representations for a placement in any other school.

Local authorities must have regard to the statutory guidance, Promoting the Educational Achievement of Looked After Children: Statutory Guidance for Local Authorities when carrying out their duties in relation to the education of looked after children.

Provision does not have to be arranged by the local authority for learners in the final year of compulsory education (Year 13) who do not have any further public examinations to sit.

### **Exclusion Appeals Process**

The Management Committee will consider parents' representations about an exclusion.

The following parties will be invited to a meeting of the Management committee and allowed to make representations:

- Parents
- The head teacher
- Representatives from the local authority or other professional agencies.

The Management Committee will identify the steps they will take to ensure all parties will be supported to participate in their consideration and have their views properly heard. This is particularly important where young people are under 18 are speaking about their own exclusion or giving evidence to the Management Committee.

The Head's PA will act as Clerk at the Meeting ensuring that clear minutes are taken of the meeting as a record of the evidence that was considered by the Committee Members. These minutes should be made available to all parties on request.

The Committee Members will ask all parties to withdraw before making a decision.

In reaching a decision on whether or not to reinstate a young person, the Committee Members should consider whether the decision to exclude the young person was lawful, reasonable and procedurally fair, taking account of the head teacher's legal duties. The Committee Members should note the outcome of their consideration on the young person's educational record, along with copies of relevant papers for future reference.

### **Examinations and Registration**

#### **Exclusions that would result in a YP missing a public examination or national curriculum test**

Whilst there is no automatic right for an excluded young person to take an examination or test on the excluding school's premises, the Committee Members may consider whether it would be appropriate to exercise their discretion to allow an excluded young person on the premises for the sole purpose of taking the examination or test.

#### **Registration**

The head teacher must remove a young person's name from the school admissions register if:

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

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