



# Exclusion Policy

<b>Date of Last Review:</b>	<b>October 22</b>
<b>Agreed by Governors:</b>	<b>October 22</b>
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*Learning at Stivichall is a passport for life*  
**Stivichall Primary School**  
**Exclusion Policy**

(linked to Behaviour and Discipline Policy)

### **Rationale**

This policy deals with the procedure and practice, which informs the school's use of exclusion. It is underpinned by the shared commitment of all members of the school community to achieve two important aims:

- 1) The first is to ensure the safety and well-being of all members of the school community, and to maintain an appropriate educational environment in which all can learn and succeed;
- 2) The second is to realise the aim of reducing the need to use exclusion as a sanction.

### **Introduction**

The decision to exclude a pupil will be taken in the following circumstances:-

- (a) In response to a serious breach of the school's Behaviour and Discipline Policy;
- (b) If allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the School.

Exclusion is an extreme sanction and is only administered by the Headteacher

Exclusion, whether fixed term or permanent may be used for any of the following, all of which constitute examples of unacceptable conduct, and are infringements of the school's Behaviour Policy:

- Verbal abuse to staff and others
- Verbal abuse to pupils
- Physical abuse to/attack on staff
- Physical abuse to/attack on pupils
- Indecent behaviour
- Damage to property
- Misuse of illegal drugs
- Misuse of other substances
- Theft
- Serious actual or threatened violence against another pupil or a member of staff.
- Sexual abuse or assault.
- Supplying an illegal drug.
- Carrying an offensive weapon.
- Arson.
- Unacceptable behaviour which has previously been reported and for which school sanctions and other interventions have not been successful in modifying the pupil's behaviour.

This is not an exhaustive list and there may be other situations where the Headteacher makes the judgment that exclusion is an appropriate sanction.

## **Exclusion procedure**

- Most exclusions are of a fixed term nature and are of short duration (usually between one and three days).
- The DfE regulations allow the Headteacher to exclude a pupil for one or more fixed periods not exceeding 45 school days in any one school year.
- The Governors have established arrangements to review promptly all permanent exclusions from the school and all fixed term exclusions that would lead to a pupil being excluded for over 15 days in a school term or missing a public examination.
- The Governors have established arrangements to review fixed term exclusions which would lead to a pupil being excluded for over five days but not over 15 days in a school term where a parent has expressed a wish to make representations.
- Following exclusion, parents/carers are contacted immediately where possible. A letter will be sent by post giving details of the exclusion and the date the exclusion ends. Parents have a right to make representations to the Governing Body and the LA as directed in the letter.
- A reintegration meeting will be held following the expiry of the fixed term exclusion. This will involve a member of the Senior Leadership Team and other staff if appropriate.
- 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 fixed period ends; or a permanent exclusion may be issued to begin immediately after the end of the fixed period. In these circumstances, a new exclusion letter will be sent to parents without delay.
- A fixed term exclusion will usually take the form of the pupil being required to remain at home.
- During the course of a fixed term exclusion where the pupil is to be at home, parents are advised that the pupil is not allowed on the School premises, and that daytime supervision is their responsibility, as parents/guardians.

## **Permanent Exclusion**

The decision to exclude a pupil permanently is a serious one. There are two main types of situation in which permanent exclusion may be considered.

1. The first is a final, formal step in a concerted process for dealing with disciplinary offences following the use of a wide range of other strategies, which have been used without success. It is an acknowledgement that all available strategies have been exhausted and is used as a last resort. This would include persistent and defiant misbehaviour including bullying (which would include racist or homophobic bullying) or possession and or use of an illegal drug on school premises.

2. The second is where there are exceptional circumstances and it is not appropriate to implement other strategies and where it could be appropriate to permanently exclude a pupil for a first or 'one off' offence. These might include:

- Serious actual or threatened violence against another pupil or a member of staff.
- Sexual abuse or assault.
- Supplying an illegal drug.
- Carrying an offensive weapon \*.
- Arson.

The School will consider police involvement for any of the above offences.

\* Offensive weapons are defined in the Prevention of Crime Act 1953 as "any article made or adapted for causing injury to the person; or intended by the person having it with him for such use by him."

These instances are not exhaustive but indicate the severity of such offences and the fact that such behaviour seriously affects the discipline and well-being of the school.

## **General factors the School considers before deciding to exclude**

Exclusion will not be imposed instantly unless there is an immediate threat to the safety of others in the school or the pupil concerned. Before deciding whether to exclude a pupil either permanently or for a fixed period the Headteacher will:

- Ensure appropriate investigations have been carried out.
- Consider all the evidence available to support the allegations taking into account the Pupil Behaviour Policy and the Single Equalities Plan.
- Allow the pupil to give her/his version of events.
- Check whether the incident may have been provoked for example by bullying or by racial or sexual harassment.

If the Headteacher is satisfied that on the balance of probabilities the pupil did what he or she is alleged to have done, exclusion will be the outcome.

### **Exercise of discretion**

In reaching a decision, the Headteacher will always look at each case on its merits because fixing a standard penalty for a particular action, is both unfair and inappropriate.

In considering whether permanent exclusion is the most appropriate sanction, the Headteacher will consider a) the gravity of the incident, or series of incidents, and whether it constitutes a serious breach of the school's Behaviour Policy and b) the effect that the pupil remaining in the school would have on the education and welfare of other pupils and staff.

In line with its statutory duty, these same two tests of appropriateness will form the basis of the deliberations of the Governors' Pupil Discipline Committee, when it meets to consider the Headteacher's decision to exclude. This Committee will require the Headteacher to explain the reasons for the decision and will look at appropriate evidence, such as the pupil's school record, witness statements and the strategies used by the school to support the pupil prior to exclusion.

### **Alternatives to Exclusion**

Alternative strategies to exclusion are included in the Behaviour Policy. The school works closely with the Local Authority and in particular The Keys, Educational Psychology (EPS), Complex Communication Team (CCT) and Social Emotional Mental Health and Learning (SEMH+L) to undertake managed moves where such a course of action would be of benefit both to the pupil and the two schools concerned. However, the threat of a permanent exclusion will never be used as the means to coerce parents to move their child to another school.

### **Lunchtime Exclusion**

Pupils whose behaviour at lunchtime is disruptive may be excluded from the school premises for the duration of the lunchtime period. This will be treated as fixed term exclusion and parents will have the same right to gain information and to appeal.

### **Behaviour Outside School**

Pupils' behaviour outside school on school "business" for example school trips and journeys, away school sports fixtures or a work experience placement is subject to the school's Behaviour Policy. Bad behaviour in these circumstances will be dealt with as if it had taken place in school. For behaviour outside school but not on school business this policy will still have effect if there is a clear link between that behaviour and maintaining good behaviour and discipline among the pupil body as a whole. If pupils' behaviour in the immediate vicinity of the school or on a journey to and from school is poor and meets the school criteria for exclusion then the Head may decide to exclude.

### **The Role of the Governing Board**

Responsibilities regarding exclusions is delegated to the disciplinary panel of governors (consisting of at least 3 governors).

The governing board has a duty to consider the reinstatement of an excluded pupil (see exclusion section)

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

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

### **Considering the reinstatement of a pupil**

The governing board (via the disciplinary panel) 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 board 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 board 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.

The board 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 board 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 board 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 board'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 SEND are considered to be relevant to the exclusion
  - That, regardless of whether the excluded pupil has recognised SEND, parents have a right to require the LA to appoint a SEND expert to attend the review

- Details of the role of the SEND expert and that there would be no cost to parents for this appointment
- That parents must make clear if they wish for a SEND 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

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 Local Authority 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 board 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:

- Are a member of the local authority or governing board 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 local authority or the governing board, 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 local authority school, governing board, parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality

A clerk will be appointed to the panel.

The independent panel will decide one of the following:

- Uphold the governing board's decision
- Recommend that the governing board reconsiders reinstatement
- Quash the governing board'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.

## **APPENDIX 1: Exclusions**

### **Legal Framework and Governance Matters relating to exclusion:**

#### **Legislation and statutory guidance**

The exclusion element of 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: 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](#)