

Exclusion Policy

Kintbury St Mary's CE Primary School



Approved by: KSM Governing Board

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Kintbury St. Mary's CE Primary School has adopted the National Guidance for the exclusion of children. This guidance has been issued by the DfE and covers in detail the roles and responsibilities of the governing body, Headteacher, Independent Appeal Panels and West Berkshire LA

At Kintbury St. Mary's CE Primary we work in partnership with children, parents and agencies to ensure the safety of all our children and staff. We respect one another and celebrate a child's right to learn and feel safe and a teacher's right to teach by treating one another with dignity. We will not tolerate discrimination or bullying in any form and will strive to promote a culture of social inclusion.

Kintbury St. Mary's Primary School is committed to the protection and safety of all its children and staff.

This policy is an appendix of Kintbury St Mary's CE Primary School Behaviour Policy; it deals with the policy 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 a very important aim;

- 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.

It should also be read in conjunction with the statutory guidance from the DfE. The most recent is attached as an appendix to this policy.

Introduction

The decision to exclude a child will be taken in the following circumstances;

- In response to a serious breach of the school's Behaviour Policy
- If allowing the child to remain in school would seriously harm the education or welfare of the child or other children and staff in school

Exclusion is an extreme sanction and is only administered by the Headteacher (or, in the absence of the Head, the member of the Senior Leadership Team who is acting in that role). 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 Behaviour Policy;

- Unacceptable behaviour which has previously been reported and for which school sanctions and other interventions have not been successful in modifying the child's behaviour.
- Verbal or physical abuse of other children or school staff
- Aggression towards other children leading to the possibility of physical or emotional harm
- Indecent 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

1. Most exclusions are of a fixed term nature and are of short duration [most commonly up to 5 days] DfE regulations allow the Headteacher to exclude a child for one or more fixed periods not exceeding 45 school days in any one school year.

The Governors will ensure there are arrangements in place to review promptly all permanent exclusions from the School and all fixed term exclusions that would lead to a child being excluded for over 15 days in a school term or missing a public examination.

The Governors will make arrangements to review fixed term exclusions which would lead to a child 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 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 return to School meeting will be held following the expiry of the fixed term exclusion and this will involve a member of

the Senior Leadership Team and other staff where appropriate with the child and their parents.

During the course of a fixed term exclusion where the child is to be at home, parents are advised that the child is not allowed on the School premises, and that daytime supervision is their responsibility, as parents/guardians. The DFE guidance states that they should not be in a public place and school will advise parents of this.

Work will be provided by the class teacher.

Permanent Exclusion

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

1. The 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).
2. When a single extremely serious act has been committed. If this is a criminal act, the school will involve the police

General factors the School considers before making a decision to exclude

Exclusion will not be imposed instantly unless there is an immediate threat to the safety of others in the School or the child concerned. Before deciding whether to exclude a child 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 school policies
- Allow the child to give her/his version of events
- Check whether the incident may have been provoked.

Children with SEND / Medical Needs

The Headteacher will take into consideration a child's SEN and will pay due attention as to whether these were a factor in the incident / incidents possibly leading to exclusion. These will be reviewed on an individual basis. Childs with an identified SEND can be excluded from school if that is the most appropriate action.

If the Headteacher is satisfied that on the balance of probabilities the child did what he or she is alleged to have done, exclusion will be the outcome and the Headteacher will inform the chair of governors as soon as possible.

The guidance is not exhaustive and judgements will need to take account of the circumstances of individual cases.

Where the parents of an excluded child do not speak or do not have a good understanding of English, correspondence and documentation relating to the exclusion should be translated into their mother tongue. In such cases the school and/or the LA should arrange for an interpreter to be present at any meetings with the parent about the exclusion.

This guidance replaces Chapter 6 and Annex D of DfE Circular 10/99.

The guidance is in five parts, three of which are discussed in more detail in this policy. If a decision is made to exclude, the most up to date advice must be sought from the DFE. Parts 4 and 5 need to be referred to the LA for up to date information and legal guidance.

Part 1: the decision to exclude - general guidance on deciding whether or not a child should be excluded and on

arrangements for their education during and after exclusions.

Part 2: procedure for excluding a child: role of Headteacher and guidance for Headteachers on procedures to be followed when they decide to excluded a child.

Part 3: responsibilities of the governing body, which must review all permanent and significantly serious fixed-term exclusions.

Part 4: independent appeal panels - guidance on the establishment of and support for Independent Appeal Panels, which consider appeals against permanent exclusions that have been endorsed by the governing body.

Part 5: police involvement and parallel criminal proceedings - guidance on exclusion decisions and appeals in cases of police involvement and possible parallel criminal proceedings.

In this guidance, 'parent' means anyone who has parental responsibility for, or care of, a child. Where a child is the subject of a care order, the local authority that has parental responsibility for the child is entitled to determine to what extent the parents exercise their parental responsibility.

Part 1: the decision to exclude

1. Introduction

A decision to exclude a child should be taken only:

- in response to parental breaches of policies relating to the use of social media, which bring harm to the child staff, or the business and/or reputation of the school
- in response to serious breaches of the school's positive behaviour management or bullying policy
- if allowing the child to remain in the school would seriously harm the education or welfare of the child or others in the school.

Only the Headteacher or their nominated representative can exclude a child.

A decision to exclude a child permanently is a serious one. It will usually be the final step in a process for dealing with disciplinary offences following a wide range of other strategies, which have been tried without success. It is an acknowledgement by the School that it has exhausted all available strategies for dealing with the child and should normally be used as a last resort. There will however be exceptional circumstances where, in the Headteacher's judgment, it is appropriate to permanently exclude a child for a first or one off offence.

These might include:

- a) serious actual or threatened violence against another child or a member of staff;
- b) sexual abuse or assault;
- c) supplying an illegal drug;
- d) carrying an offensive weapon; or
- e) making allegations about members of staff which are proved to be unfounded and false.

The School will also consider whether or not to inform the police where such a criminal offence has taken place. They should also consider whether or not to inform other agencies, e.g. Youth Offending Team, Children's Services workers, etc. These instances are not exhaustive, but indicate the severity of such offences and the fact that such behaviour can affect the discipline and the well-being of the School community.

In cases where the Headteacher has permanently excluded a child for:

- a) one of the above offences, or

b) persistent and defiant misbehaviour, including bullying (which includes racist or homophobic bullying),

or repeated possession and/or use of an illegal drug on School premises, the Secretary of State would not normally expect the governing body or an Independent Appeal Panel to reinstate the child.

2. Drug-related exclusions

In making a decision on whether or not to exclude for a drug-related offence the Headteacher should have regard to the DfE and or School's published policy on drugs. But the decision will also depend on the precise circumstances of the case and the evidence available. In some cases fixed-period exclusion will be more appropriate than permanent exclusion. In more serious cases, an assessment of the incident should be made against criteria set out in the School's policy. This should be a key factor in determining whether permanent exclusion is an appropriate course of action.

3. Factors to consider before making a decision to exclude

Exclusion should not be imposed in the heat of the moment, unless there is an immediate threat to the safety of others in the School or the child concerned. Before deciding whether to exclude a child, either permanently or for a fixed period, the Headteacher will:

- a) ensure that an appropriate investigation has been carried out;
- b) consider all the evidence available to support the allegations, taking account of the School's positive behaviour management and equal opportunities policies and, where applicable, the Equality Act 2010 as amended;
- c) allow the child to give his or her version of events;
- d) check whether the incident may have been provoked, for example by bullying or by racial or sexual harassment; and
- e) if necessary consult others, but not anyone who may later have a role in reviewing the Headteacher's decision, eg a member of staff or the governing body.

If satisfied that, on the balance of probabilities, the child did what he or she is alleged to have done, the Headteacher may exclude the child.

Where a police investigation leading to possible criminal proceedings has been initiated, the evidence available may be very limited. However, it should still be possible for the Headteacher to make a judgement on whether to exclude the child. Part 5 of the guidance deals with these circumstances in more detail [please refer to DfE Guidance].

An exclusion will usually, but not always follow a severe warning – the content of which will have been relayed to parents in writing. This warning will remain on a child's record permanently for the duration of their educational time at the school and may be shared with other schools and Academies.

4. Alternatives to exclusion

Exclusion should not be used if there are possible alternative solutions available. Examples of alternatives to exclusion the school may want to consider include:

- a) using a restorative justice process, which enables an offender to redress the harm that has been done to a victim, and enables all parties with a stake in the outcome to participate fully in the process. This has been used successfully to resolve situations that could otherwise lead to exclusion;
- b) internal exclusion (also known as internal seclusion), which can be used to diffuse situations that occur in school that require a child to be removed from class but may not require exclusion from the school premises. The exclusion could be to a designated area within the school, with appropriate support, or to another class on a temporary basis, and may continue during break periods;
- c) a managed move: if a School feels that it can no longer manage the behaviour of a particular child, the School may seek advice from the LA on their managed move policy.

5. When exclusion is not appropriate

Exclusion will not be used for:

- a) minor incidents such as failure to do homework or to bring dinner money;
- b) poor academic performance;
- c) lateness or truancy;
- d) breaches of School uniform rules or rules on appearance (including jewellery and hairstyle), except where these are persistent and in open defiance of such rules, or there is a Health and Safety issue arising from their choice; or
- e) punishing children for the behaviour of their parents, for example where parents refuse or are unable to attend a meeting.

6. Length of fixed period exclusions

The regulations allow Headteachers to exclude a child for one or more fixed periods not exceeding 45 school days in any one school year. However, individual exclusions should be for the shortest time necessary, bearing in mind that exclusions of more than a day or two make it more difficult for the child to reintegrate into the school. Ofsted inspection evidence suggests that one to three days is often long enough to secure the benefits of exclusion without adverse educational consequences.

Exclusions may not be given for an unspecified period, for example until a meeting can be arranged. Such a practice amounts to an indefinite exclusion, for which no legal arrangements exist.

The School's obligation to provide education continues while the child is on the roll, and must be met during a fixed-term exclusion. In all cases of more than a day's exclusion, work should be set and marked. This could include the use of home learning e packages.

When it is necessary for a Headteacher to consider whether to exclude a child for a longer period, for example for more than 15 school days, the following should be taken into account:

- a) how the child's education will continue during the period of exclusion;
- b) how the time might be used to address the child's problems; and
- c) together with the LA, what educational arrangements will best help with the child's reintegration into the school at the end of the exclusion.

7. Lunchtime exclusion

Children whose behaviour at lunchtime is disruptive may be excluded from the school premises for the duration of the lunchtime period. A lunchtime exclusion is a fixed-period exclusion (equivalent to one half school day) and should be treated as such, and parents have the same right to be given information and to appeal. Lunchtime exclusion for an indefinite period, like any other indefinite exclusion, would not be lawful. Arrangements should be made for children who are entitled to free school meals. This may mean providing a packed lunch.

At Kintbury St. Mary's CE Primary School, we do not expect to see lunchtime exclusion used for a prolonged period. In the longer term, another strategy for dealing with the problem may be worked out.

8. Parental cooperation

If a parent refuses to co-operate with a formal exclusion by sending the excluded child to the school, or refusing to collect or arrange collection of him or her at lunchtime, the school must have due regard for the child's safety in deciding what action to take. An exclusion should not be enforced if doing so may put the safety of the child at risk. If efforts to resolve the issue with the parents are unsuccessful, the school will consider whether to contact other agencies within the LA or school solicitor about available legal remedies.

9. Procedures for review and appeal

The governors will establish arrangements to review promptly all permanent exclusions from the school, and all fixed-term

exclusions which would lead to a child being excluded for over 15 days in a School term, or missing a public examination. The governors will also establish arrangements to review fixed-term exclusions that would lead to a child being excluded for over five days but not over 15 days in a school term, where the parent has expressed a wish to make representations. The school will decide whether or not to reinstate the child if appropriate, or whether the Headteacher's decision to exclude the child was justified.

The school will make arrangements for an Independent Appeals Panel to hear appeals against permanent exclusions where the governors do not direct reinstatement.

10. Procedures following permanent exclusion

In the case of a permanent exclusion the child remains on the roll of the School until any appeal is determined, the time limit for an appeal has expired without an appeal being brought, or the parent has told the school within 15 days that no appeal is to be brought. Again, while the child is on the roll of the school it is the responsibility of the school that his or her education continues but, as in the case of longer fixed term exclusions, it may be necessary for the school to seek the help from the LA.

Once a permanent exclusion has been endorsed by the governors, the LA should arrange to assess the child's needs and how to meet them, including any special educational needs the child may have. Once the child is removed from roll, the LA is responsible for ensuring that suitable education is made available.

11. Reintegration meetings

A reintegration meeting with parents, the child and the Headteacher following the expiry of a fixed period exclusion MUST be held with all parties, before the child is reinstated.

12. Behaviour outside School

Children's behaviour outside school on school business includes, for example, on school trips or on away school sports fixtures and is subject to the school's positive behaviour management policy. Unacceptable 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, a Headteacher may exclude a child if there is a clear link between that behaviour and maintaining good behaviour and discipline among the child body as a whole. This will be a matter of judgment for the Headteacher. A child's behaviour in the immediate vicinity of the school or on a journey to or from school can, for example, be grounds for exclusion.

13. Childs with special educational needs (SEND)

Statutory guidance on identifying, assessing and making provision for children with SEND, including those with behavioural, social and emotional needs, is given in the Special Educational Needs Code of Practice. The school will have regard to this guidance. The school governing body will have a statutory duty to do their best to ensure that the necessary provision is made for any child who has SEN.

Other than in the most exceptional circumstances, the school will avoid permanently excluding children with EHCPs. We will also make every effort to avoid excluding children who are being supported under the Special Educational Needs Code of Practice, including those who are being assessed for a statement. In most cases, the teacher will be aware that the school is having difficulty managing a child's behaviour well before the situation has escalated. Schools should try every practicable means to maintain the child in school, including seeking LA and other professional advice and support or, where appropriate, asking the LA to consider carrying out a statutory assessment. For a child with an EHCP where this process has been exhausted, the school should liaise with their LA about initiating an interim annual review of the child's statement.

Where a child is permanently excluded, the Headteacher will use the period between his or her initial decision and the

meeting of the governors, to work with the LA to see whether more support can be made available or whether the EHCP can be changed to name a new school or school. If either of these options is possible, the Headteacher should normally withdraw the exclusion.

It is extremely important that parents of children with SEN who are excluded from the school receive advice on the options available for their child's future education. We will advise parents that advice and information on SEND is available through their local SEND Parent Partnership. The Parent Partnership should also be able to provide details of voluntary agencies that offer support to parents, including those that can offer advice concerning exclusions.

14. Disabled children

The school has a legal duty under the Equality Act 2010 not to discriminate against disabled children by excluding them from school because of their disability. This applies to permanent and fixed-term exclusions. The definition of disability under the Act covers children with physical, sensory, intellectual or mental impairments. Discrimination means treating disabled children less favourably than other children without justification. It also means failing to take reasonable steps to ensure that disabled children are not placed at a substantial disadvantage compared to their non-disabled peers. What constitutes a reasonable step will depend on the circumstances of each case. The Equality and Human Rights Commission has published a code of practice, which explains and illustrates the School's duties to disabled children, including in relation to exclusions. The school will consider the code in applying this policy.

- Appeals against permanent exclusion, where discrimination is alleged to have taken place, or the disabled child has been placed at a substantial disadvantage by the exclusion procedures, will be heard by the independent appeal panel. Claims alleging discrimination in respect of fixed-period exclusions will be heard by the SEN and Disability Tribunal. Schools will be required, in disability discrimination claims, to demonstrate that their actions are justified and that there are no reasonable adjustments to their policies and practice they might have made to prevent the incident which led to the exclusion. Since many disabled children will also have special educational needs, the school will consider the action they have taken to address those needs in this context.

15. Race relations

The Equality Act 2010 places a general duty on all schools to have due regard to the need to eliminate unlawful racial discrimination and promote equality of opportunity and good relations between people of different racial groups. The Act also places a number of specific duties on schools, including duties to assess the impact of policies and to monitor the operation of those policies on children, parents and staff from different racial groups.

This legislation requires Schools to take steps to ensure that they will not discriminate against children on racial grounds when making a decision about whether to exclude a child. For example, schools should monitor by ethnicity to ensure that they do not treat some groups of children more harshly than others. Schools are required to assess whether policies that lead to sanctions, including exclusion, have a disproportionately adverse impact on children from particular racial groups. If adverse impact is

identified and this cannot be justified, then the policy should be revised. The Equality and Human Rights Commission has published guidance; Public sector equality duty guidance for schools in England. The School and all those involved in exclusion decisions or appeals will read the guidance when applying this policy.

The school will consider other protected groups such as gender, race, gender reassignment, sexual orientation, religion or belief and age when deciding whether to exclude a child and recognises that the equality act 2010 places a duty of schools to assess the impact of policies and to monitor the operation of those policies on children, parents and staff from these various groups.

16. Children in public care

- Children who are looked after, in public care, are especially at risk of low attainment in education [as advised by national

guidance]. The school will be especially sensitive to exclusion issues where children in public care are concerned. The school will try every practicable means to maintain the child in school and should seek LA and other professional advice as appropriate. Children's Services should in all cases be involved at the earliest opportunity in working with the school to avoid the need to exclude the child.

In cases where a Looked After Child, in public care, is excluded, anyone who is seen as a parent will have the right to make representations and to appeal. The definition of a parent for the purposes of the Education Act is broadly drawn and includes a person who has parental responsibility (which includes the Local Authority where they have a care order in respect of the child) and any person (for example, a foster parent) with whom the child lives. These are in addition to the child's birth parent(s). This means that there could be more than two people whom the School has to notify about exclusions and who will have the right to make representations and appeal.

Even where the Local Authority does not have parental responsibility, the child's key worker will be informed about any exclusion. The designated teacher for looked-after children will be able to advise on the legal status of children who are looked after, in public care, in the school.

17. Role of the Secretary of State

The Secretary of State provides guidance on exclusion, to which the Headteacher, governors, the LA, Diocese and Independent Appeal Panels will have regard. He can consider complaints about the governors and operation of the exclusion procedure. He has no power to consider complaints about the decision of an Independent Appeal Panel.

Education Act 2002. <https://www.legislation.gov.uk/ukpga/2002/32/contents>

<https://www.gov.uk/school-discipline-exclusions/exclusions> <https://www.gov.uk/government/publications/behaviour-and-discipline-in-schools> <https://www.gov.uk/government/publications/school-exclusion>
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398815/SEND_Code_of_Practice_January_2015.pdf <https://www.gov.uk/children-with-special-educational-needs/overview>

<https://www.legislation.gov.uk/uksi/1995/2089/contents/made>
<https://www.legislation.gov.uk/uksi/2002/3178/contents/made>

The Education (Child Exclusions and Appeals) (Maintained Schools) (England) Regulations 2002 (S.I. 2002/3178).
The Education (Child Exclusions and Appeals) (Child Referral Units) (England) Regulations 2002 (S.I. 2002/3179).

Equality Act 2010.

The Education (Child Registration) Regulations 1995 (S.I. 1995/2089).