

# Exclusions Policy

1 June 2017 Version Number:1

Review Date: Summer Term 2018

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Northern  
House  
School



## EXCLUSIONS POLICY

## Introduction

This Exclusions Policy has been updated in line with latest DfE guidance that replaces 2008 guidance, came into force on 1st September 2012. This policy should be read in conjunction with that guidance.

### Headteacher's power to exclude

Only the Headteacher or teacher in charge of a school (or, in the absence of the Headteacher or teacher in charge, the acting Headteacher or teacher in charge) can exclude a pupil. Other exclusion-related activities do not have to be undertaken by the Headteacher personally, but may be delegated. (DfE §1)

All exclusions must be on disciplinary grounds (DfE §1)

Exclusion can either be a fixed term exclusion, for a set number of days that are not continuous, or a permanent exclusion. Fixed term exclusions cannot exceed 45 school days in any one academic year. Lunchtime exclusions may be imposed and are counted as half a school day. The limit of 45 days applies to the pupil and not the institution. (DfE §1, 2).

In exceptional cases, usually where further evidence has come to light, a fixed period exclusion may be extended or converted to permanent. In these circumstances a new exclusion letter must be sent outlining the reasons.

Lunchtime exclusions may be imposed, and count for half a day each for statistical purposes in determining whether a meeting of the governing body is triggered. (DfE §20)

The behaviour of a pupil outside school can be considered as grounds for exclusion. This will be a matter of judgement for the Headteacher in accordance with the school's published behaviour policy. (DfE §3)

The Headteacher has the right to withdraw an exclusion that has not been reviewed by the Governing Body. (DfE §4)

Headteachers must take account of their legal duty of care when sending a pupil home following an exclusion. (DfE §6)

The threat of exclusion must never be used to influence parents to remove their child from school (DfE §14)

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. (DfE §5)

Informal or unofficial exclusions, such as sending pupils home to cool off are unlawful, regardless of whether they occur with the agreement of the of parents or carers. Any exclusion of a pupil, even for a short period of time, must be formally recorded. (DfE §13)

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All exclusions are reported weekly to the CEO and half termly to the Governing Body. Looked after Children are reported to Social Workers.

It is unlawful to exclude or increase the severity of an exclusion for a non-disciplinary reason. It would be unlawful for instance to exclude a pupil simply because they have additional needs or a disability 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 for the failure of a pupil to meet specific conditions before they are reinstated. Pupils who repeatedly disobey their teachers' academic instructions could, however, be subject to exclusion. (DfE §12)

Under the Equality Act 2010 schools must not discriminate against, harass, or victimise pupils because of their: sex, race, disability, religion or belief, sexual orientation, because of a pregnancy/maternity, or because of a gender reassignment. For disabled children, this includes a duty to make reasonable adjustments to policies and practices. (DfE §8)

The Equality Act requires schools to have due regard for the need to:

- eliminate discrimination and other conduct prohibited under the Equality Act,
- advance equality of opportunity between people who share a protected characteristic and people who do not share it, and
- foster good relations across all characteristics – between people who share a protected characteristic and people who do not. (DfE §9)

These duties need to be taken into account when deciding whether to exclude a pupil. Schools must ensure that their policies and practices do not discriminate against pupils by unfairly increasing their risk of exclusion. Provisions within the Equality Act 2010 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. (DfE §10)

Headteachers and Governing Bodies must take account of their statutory duties in relation to special educational needs when administering the exclusion process. This includes having regard to the SEN Code of Practice. (DfE §11)

Maintained schools have the right to direct a pupil off-site for education to improve his or 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. (DfE §14)



## Factors a Headteacher should take in to account before taking the decision to exclude (DfE §15-24)

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

- in response to serious or persistent breaches of the school's behaviour policy; and
- if allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school. (DfE §15)

The standard of proof is the civil standard – ‘on the balance of probabilities’ (DfE §5). The more serious the offence the more convincing the evidence should be. Before making the decision to exclude, either permanently or for a fixed term, Headteachers should give pupils the opportunity to present their case. (DfE §16)

Whilst an exclusion may still be deemed appropriate, Headteachers should take account of any contributing factors that are identified following an incident of poor behaviour – for example, when it comes to light that a pupil has suffered bereavement, has mental health issues or has been subject to bullying. (DfE §17)

Wokingham Borough Council Guidance stresses the importance of early, proactive intervention to analyse and alleviate any underlying causes of poor behaviour in school, particularly in relation to pupils with statements of SEN and looked after children. Guidance is that Headteachers should as far as possible avoid permanently excluding any pupil with a statement of SEN or a looked after child. (DfE §23)

Schools should engage proactively with parents in supporting the behaviour of pupil with additional needs. In relation to looked after children, schools should co-operate proactively with foster carers or children’s home workers and the local authority that looks after the child. (DfE §23)

Early intervention to address any underlying causes should include an assessment of whether appropriate provision is in place to support any SEN or disability a pupil may have. Headteachers should also consider the use of a multi-agency assessment for pupils who demonstrate persistent disruptive behaviour. Such assessments may pick up unidentified special educational needs but the scope of the assessment could go further, for example by seeking to identify mental health or family problems. (DfE §18-24)

Individual fixed-period 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 pupil to reintegrate into the school afterwards. Ofsted inspection evidence has suggested that 1-3 days are often long enough to secure the benefits of exclusion without adverse educational consequences. Where it is clear that fixed-period exclusions are not being effective in deterring poor behaviour, for example if they are being repeatedly imposed on a pupil in response to the same behaviour, Headteachers and teachers in charge should consider alternative strategies for addressing that behaviour.



A decision to exclude a child permanently is a serious one and should only be taken where the basic facts have been established on the balance of probabilities. It will usually be the final step in a process for dealing with disciplinary offences following a wide range of other strategies, including multi agency involvement which have been tried without success.

## When is exclusion not appropriate?

Exclusion should not be used or extended for non-disciplinary reasons such as:

- truancy or lateness
- pregnancy
- minor incidents such as failing to do homework
- simply because the school feels a student has additional needs or a disability it is unable to meet (DfE §12)
- poor academic performance, except where pupils repeatedly disobey academic instructions (DfE §12)
- breaches of school rules on uniform and appearance, except where such breaches are so persistent they constitute open defiance of school
- punishing pupils for the behaviour of their parents, for example where parents refuse or are unable to attend a meeting (DfE §12)
- the failure of a pupil to meet specific conditions before they are reinstated (DfE §12)

Even if there is parental agreement with the exclusion, exclusion for these reasons remains unlawful.

## Vulnerable learners – students for whom guidance gives particular protection (DfE §20-24)

Statutory guidance identifies a number of groups of pupils for whom the exclusion rate is consistently higher than average. This includes: pupils with SEN, pupils eligible for Free School Meals, Looked After Children, and pupils from certain ethnic groups. The groups with the highest national rates of exclusion are: Gypsy/Roma, Travellers of Irish Heritage, and Black Caribbean communities.

Statutory guidance stresses the importance of early intervention in addressing underlying causes of all disruptive behaviour. For students with SEN or a disability the intervention should include an assessment of whether appropriate provision is in place. Headteachers are advised to also consider the use of a multi-agency approach for all students who demonstrate persistent disruptive behaviour.

For pupils in the groups identified above, in addition to early intervention, Headteachers should consider what extra support might be needed to identify and address their needs in order to reduce their risk of exclusion. For example, schools might draw on the support of Traveller Education Services, or other professionals, to help build trust when engaging with families from Traveller communities.

The stipulations of the Equality Act 2010, covered above, detail the factors, and duties, for which schools should have due regard. As stated, schools must ensure their policies and practices do not discriminate against pupils by unfairly increasing their risk of exclusion. Provisions within the Equality Act allow schools to take positive action to deal with particular disadvantages affecting on group,



where this can be shown to be a proportionate way of dealing with such issues. (DfE §10) Such guidance clearly has particular relevance for the following:

**Pupils with special educational needs.** Guidance is that schools should as far as possible avoid permanently excluding statemented students or those with EHC Plans. Where a school has concerns about a pupil with additional needs or a statement of SEN, it should engage proactively with parents in supporting behaviour. A school should also consider what additional support or alternative placement may be required. This should involve assessing the suitability of provision for a pupil's SEN. Where a pupil has a statement of SEN. Schools should consider requesting an early annual review or interim/emergency review. Part 2 of this guidance sets out the particular strategies and procedures that should be followed when a child with a statement of SEN after is either in danger of permanent exclusion, or has been excluded.

**Looked after children.** As far as possible, schools should avoid permanently excluding looked after children. Where a school does have concerns about the behaviour of a looked after child, it should co-operate proactively with foster carers or children's home workers and the local authority that looks after the child. It should also consider what additional support or alternative placement may be required. (DfE §22-24) Part 2 of this guidance sets out the particular strategies and procedures that should be followed in maintained schools in Wokingham when a looked after child is in danger of permanent exclusion.

**Disabled pupils.** Schools have a statutory duty under the Equality Act 2010 not to discriminate against pupils on the basis of protected characteristics, such as disability. For disabled children this includes a duty to make reasonable adjustments to policies and practices. Part 2 of this guidance sets out the particular strategies and procedures that should be followed in maintained schools in Wokingham when a child with a disability is in danger of permanent exclusion.

**Students from racial minorities.** Schools have a statutory duty under the Equality Act 2010 not to discriminate against pupils on the basis of protected characteristics, such as race. Provisions within the Equality Act 2010 allow schools to take. The law places specific schools to ensure they do not discriminate against pupils on racial grounds.) Schools should monitor and analyse exclusions by ethnicity to ensure they do not treat some groups of pupils more harshly than others. Schools are required to assess whether policies that lead to sanctions, including exclusion, have a disproportionately adverse impact on pupils from particular racial groups. If an adverse impact is identified that cannot be justified, then the policy and practice should be reviewed.

Apart from exclusion, in what circumstances can a pupil be required to leave the school site? In the vast majority of cases a pupil will only be asked to leave the school when excluded. There are however three special sets of circumstances when a school can legally ask a pupil to leave the school site without imposing an exclusion:

A pupil is accused of a serious criminal offence, but the offence took place outside the school's jurisdiction. In these circumstances the Headteacher may decide that it is in the interests both of the pupil and the school for the pupil to be educated off site for a certain period, subject to review at regular intervals. This would not constitute an exclusion. It would be the school's responsibility to ensure the pupil's full time education continues while off site, and arrangements would have to be in place before the absence began. The arrangements should be kept under periodic review involving the parents.



For medical reasons a pupil's presence on the school site represents a serious risk to the health or safety of other pupils or school staff. Headteachers and teachers in charge may send a pupil home, after consultation with that pupil's parents and a health professional (for example, a school nurse) as appropriate, where because of a diagnosed illness such as a notifiable disease he or she poses an immediate and serious risk to the health and safety of other pupils and staff. This is not an exclusion, but it is an authorised absence and should be recorded as such in the attendance register. It should be for the shortest possible time. If difficulties persist, the Headteacher should seek medical advice. Health and safety considerations, including a risk assessment, can contribute to a school's case for exclusion, but cannot in themselves be grounds for exclusion, which can only lawfully be for disciplinary reasons. Similarly, pupils cannot be sent home on health and safety grounds for their own protection because they are being bullied. It is not appropriate to send home children with special educational needs (SEN), with conditions such as attention deficit hyperactivity disorder (ADHD) and autism, purely for that reason and schools should arrange a statutory annual or interim/emergency review if they feel they are no longer able to meet a child's needs. The child should not be sent home in anticipation of such a review. (DfE §34)

The pupil is given permission to leave the school premises briefly to remedy breaches of the school's rules on behaviour or uniform. This is not an exclusion but an authorised absence. If the pupil continues to breach uniform rules as a way to be sent home to avoid school, the pupil's absence can be recorded as an unauthorised absence.

### **Who is responsible for an excluded pupil's continued education?**

**Exclusions of five days or under where a public examination is not missed.** It is the responsibility of the school to set and mark work for exclusions of five days or under. The work should be accessible and achievable by pupils outside of school. It is the responsibility of the parent to ensure work sent home is completed and returned to school. The parent has particular responsibility to ensure that the student is not present in a public place during school hours without justification, and may be prosecuted or given a fixed penalty notice if they fail to do so.

**Exclusions of six days or over.** When a school or Short Stay School imposes a fixed term exclusion of over six days it is the responsibility of the school to ensure that the appropriate full time provision is made off site for the excluded student. While this provision must be made from day six onwards statutory guidance stresses the obvious benefit in starting it as soon as possible. In particular, in the case of a looked after child, schools and local authorities should work together to arrange alternative provision from the first day following the exclusion. (DfE§48)

**Permanent exclusion.** When a student is permanently excluded, it is the responsibility of the school to set and mark work for the first five days. From the sixth day onward it is the responsibility of the local authority to make a full time provision. Where a pupil has a statement of SEN, an appropriate full time placement should be identified in consultation between the local authority and the parents, who retain their rights to express a preference for a school they wish their child to attend, or make representations for a placement in any other school. (DfE §45)