

LEICESTERSHIRE COUNTY COUNCIL

HIGHGATE PRIMARY SCHOOL

Exclusion
POLICY

2020

Exclusion Policy November 2020

Exclusion Policy

Promoting positive behaviour and early intervention

At Highgate Primary School we believe in promoting positive behaviour (see our Pupil Discipline & Behaviour Management for Learning Policy) and see exclusion as the last resort. In these cases the headteacher or teacher in charge will refer to the DfE Guidance on Exclusion from Schools document (September 2017) and the Changes to School Exclusion During the Coronavirus (Covid-19) Outbreak (updated 5th October 2020).

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/921405/20170831_Exclusion_Stat_guidance_Web_version.pdf

<https://www.gov.uk/government/publications/school-exclusion/changes-to-the-school-exclusion-process-during-the-coronavirus-outbreak>

Alternatives to exclusion may include:

- Restorative justice approach (where the “offender” redresses the harm caused to the “victim”);
- Mediation (including the use of third parties to resolve conflicts);
- Internal exclusion (moved to another class or from particular activities but kept within the school setting);
- Reduced or part-time timetable for an individual pupil
- Dual registration with Oakfield Short Stay School (see additional application process)
- Managed Move (to another school to allow the child to have a fresh start).

Removing pupils from a school site and the decision to exclude

There are four circumstances that a pupil may be required to leave the school premises:

- If there is sufficient evidence that a pupil has committed a disciplinary offence and the pupil remaining on-site could harm the welfare of him/herself and or others.
- A pupil is accused of a serious criminal offence but the offence took place outside the school’s jurisdiction.
- For medical reasons a pupil’s presence on the site represents a risk to the health and safety of others.
- The pupil is given permission to temporarily leave the school premises to remedy breaches of the school rules.

A decision to exclude a pupil permanently will be taken only:

- in response to serious 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.

A decision to exclude a child **permanently** is serious and will only be taken where the basic facts have been clearly 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 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 will be used as a last resort.

There are, however, 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:

- serious actual or threatened violence against another pupil or a member of staff;
- sexual abuse or assault;
- supplying an illegal drug; or
- carrying an offensive weapon.

In these circumstances the police or relevant agencies (such as social workers or Youth Offending Teams) will be informed.

Fixed Term Exclusion:

A decision to exclude a pupil for a fixed period will be taken only in response to breaches of the school's behaviour policy, including persistent disruptive behaviour, where these are not serious enough to warrant permanent exclusion and lesser sanctions such as detention or internal exclusions are considered inappropriate. Individual fixed period exclusions will 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.

Factors to consider before making a decision to exclude

Exclusion will 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 pupil concerned. Before deciding whether to exclude a pupil, either permanently or for a fixed period, the headteacher / teacher in charge will:

- ensure that a thorough investigation has been carried out;
- consider all the evidence available to support the allegations, taking account of the school's behaviour and equal opportunities policies;
- allow and encourage the pupil to give their version of events;
- check whether the incident may have been provoked, for example by bullying, or by racial or sexual harassment;
- if necessary, consult others, but not anyone who may later have a role in reviewing the headteacher's decision, for example a member of the governing body;
- keep a written record of the actions taken (and copies of written records made by other members of staff), including any interview with the pupil concerned. Witness statements must be dated and should be signed, wherever possible.
- consider if the child's behaviours were as a result of or response to measures put in place due to Covid-19. In this case there may be mitigating circumstances that may require an alternative resolution.

When exclusion is not appropriate

Exclusion will not be used for:

- minor incidents such as failure to do homework or to bring dinner money;
- poor academic performance;
- lateness or truancy;

- pregnancy;
- breaches of school uniform rules or rules on appearance (for example, relating to jewellery, body-piercing, hairstyles, etc.), except where these are persistent and in open defiance of such rules;
- punishing pupils for the behaviour of their parents, for example where parents refuse, or are unable, to attend a meeting;
- protecting victims of bullying by sending them home.

Procedure for excluding a pupil: role of head teacher

If the headteacher is satisfied that, on the balance of probabilities, a pupil has committed a disciplinary offence and needs to be removed from the school site for that reason, formal exclusion is the only legal method of removal. **Informal or unofficial exclusions are illegal** regardless of whether they are done with the agreement of parents or carers.

If pupils are sent home in response to a breach of discipline, even for short periods of time, this must be formally recorded as exclusion.

In every instance where a pupil is sent home for disciplinary reasons, headteachers must formally record and specify the length of the exclusion (for reporting purposes this should be recorded as a half day, whole day or lunchtime). They should ensure that:

- they are meeting their legal duty of care towards pupils, and that parents are formally notified of the exclusion;
- child protection issues are taken into account e.g. bearing in mind the child's age and vulnerability, that a parent/carer is at home and the child is not placed at risk by, for example, being left to wander the streets; and
- that work is sent home or alternative provision is arranged.

Length of fixed period exclusions

Regulations allow headteachers / teachers in charge to exclude a pupil for one or more fixed periods which, when aggregated, do not exceed a total of 45 school days in any one school year. The limit of 45 school days applies to the pupil and not to the institution. Therefore, any days of fixed period exclusion served by the pupil in any school or PRU in the same school year will count towards the total. It is important therefore that, when a pupil transfers to a new school during the academic year, records of the fixed period exclusions a pupil has received and served so far during the current academic year are also transferred promptly to the new school. When imposing fixed period exclusions head teachers/ teachers in charge should bear in mind the duration and frequency. 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 authority exists.

Lunchtime exclusion

Pupils whose behaviour at lunchtime is disruptive may be excluded from the school premises for the duration of the lunchtime period. Lunchtime exclusions are counted as one half of a school day for statistical purposes and to trigger governor / management committee meetings so that parents can make representations.

Lunchtime exclusions will not be counted towards the school's duty to provide fulltime education from day six of a fixed period exclusion. Therefore, lunchtime exclusions are not affected by regulations on providing pupils with education from the sixth day of their exclusion. Taking into account the child's age and vulnerability, the headteacher should ensure that a parent / carer has been contacted and is available, if appropriate, to arrange collection and supervision of the pupil during the lunchtime exclusion. A lunchtime exclusion for an indefinite period, like any other indefinite exclusion, would not be lawful. The Secretary of State does not expect lunchtime exclusion to be used for a prolonged period, e.g. for longer than a week. In the long run another strategy for dealing with the problem should be worked out. Arrangements should be made for pupils who are entitled to free school meals to receive their entitlement which may mean, for example, providing a packed lunch.

Procedures following a fixed period exclusion

For a maintained school, the school's obligation to provide education continues and must be met during a fixed period exclusion. Parents are not responsible for making any educational provision for their excluded child, but are expected to cooperate with schools in this regard. Where a pupil is given a fixed period exclusion of a duration of six school days or longer, the school has a duty to arrange suitable full-time educational provision from and including the sixth school day of the exclusion: this does not apply to pupils of non-compulsory school age.

Re-integration Interview

The headteacher must arrange a reintegration interview with parents during or following the expiry of any fixed period exclusion of a primary-aged pupil. An interview is not necessary where the pupil is leaving school within the period of the exclusion for a reason unconnected with his or her behaviour or where the first day of exclusion falls within the last ten school days in the school year. The pupil should normally attend all or part of the interview. The interview should be conducted by the headteacher / teacher in charge or a senior member of staff. In some circumstances it may be helpful for another person to be present such as the designated teacher or nominated governor. During any such period where there is a need for social distancing, the school will do its utmost to ensure any meetings are held remotely (including if the exclusion were to be challenged and an Independent Reviewing Officer were required).

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

- emphasise the importance of parents working with the school to take joint responsibility for their child's behaviour;
- discuss how behaviour problems can be addressed;
- explore wider issues and any circumstances that may be affecting the child's behaviour;
- reach agreement on how the child's education should continue, how best they can be reintegrated and what measures could be put in place to prevent further misbehaviour; and
- create a useful forum to consider with parents the possibility of a parenting contract.

The interview must be held during the period beginning with the first school day to which the exclusion relates and ending with the fifteenth school day following the day on which the pupil returns to school. The headteacher must try to arrange the interview for a date and time that is convenient to the parent. If possible the interview should be held on the day the pupil returns to school.

At least one of the child's parents is expected to attend the meeting. A parent's failure to attend will be one factor taken into account by a magistrates' court when deciding whether to impose a parenting order, if at any future date a parenting order has been applied for by the school or local authority.

Schools must keep records of the failure to attend a reintegration interview, and of any explanation given by the parent for failure to attend, as the court may need to see them. However, a fixed period exclusion must not be extended if such an interview cannot be arranged in time or the parents do not attend. The interview must be conducted on school premises. The notice relating to a reintegration interview can be combined with the notice informing the parent of the exclusion or relating to the alternative educational provision that the pupil must attend whilst excluded. (see model letters – Appendix 1)

Penalty notice for excluded pupils

During the initial period of up to five school days of any exclusion, whether fixed period or permanent, the parents of the excluded pupil must ensure that he or she is not present in a public place during normal school hours without reasonable justification. This requirement applies whether or not the pupil 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 if they fail to do this. 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.

Parental co-operation

If a parent does not comply with an exclusion, for example by sending the excluded child to school, or by refusing to collect, or arrange collection of, him or her, including at lunchtime, the school must have due regard for the pupil's safety in deciding what action to take. An exclusion should not be enforced if doing so may put the safety of the pupil at risk. If efforts to resolve the issue with the parents are unsuccessful the school should consider whether to seek the advice of the Local Authority (LA). In some circumstances, police or community support officers could become involved. Where there is a persistent lack of parental co-operation and this is affecting the child's behaviour, the school or LA may consider applying for a parenting order.

Procedures for review and appeal, Governor & Local Authority Responsibilities

The head teacher must notify the governing body and LA of the types of exclusion listed below:

- permanent exclusions;
- exclusions which would result in the pupil being excluded for more than five school days (or more than 10 lunchtimes) in any one term; and
- exclusions which would result in the pupil missing a public examination.

In this school, the head teacher reports all exclusions to the governing body as part of a formal report to governors.

Where governing bodies are notified of an exclusion, they must (whether or not the parent requests) review any exclusion which is a permanent exclusion from their school, or fixed period exclusions that would result in a pupil being excluded for more than 15 school days in any one term, or missing a public examination.

The governing body must decide whether or not to reinstate the pupil, if appropriate, or whether the head teacher's decision to exclude the pupil was justified/appropriate. The governing body can delegate the function to review exclusions to a committee consisting of at least three governors/members. **Procedures are set out in Part 6 of the guidance document "Exclusions from maintained schools, academies and pupil referral units in England; Statutory guidance for those with legal responsibilities in relation to exclusion" (Sept 2017)**

The LA must make arrangements for Independent Appeal Panels to hear appeals against permanent exclusions where the governing body or management committee upholds the exclusion. **Procedures are set out in Part 8 of the guidance document "Exclusions from maintained schools, academies and pupil referral units in England; Statutory guidance for those with legal responsibilities in relation to exclusion" (Sept 2017)**

Parent Advice

For further advice parents can visit the following website:

<https://www.gov.uk/school-discipline-exclusions/discipline>

You can get free legal advice and information on children's schooling and education rights from the Coram Children's Legal Centre.

You can download factsheets from the website or talk to an advisor on the phone.

Coram Children's Legal Centre

www.childrenslegalcentre.com

Telephone: 08088 020 008

Monday to Friday, 8am to 8pm

Reviewed by Mr T. Jenkinson

November 2020

To be reviewed Autumn 2022