

# WHIMPLE PRIMARY SCHOOL EXCLUSION POLICY



This policy is underpinned by the shared commitment to achieve two important aims:

- 1) 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) To reduce 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 Good Behaviour and Discipline Policy;
- (b) If allowing the pupil to remain in school would seriously harm the learning or welfare of pupils or the welfare of staff in the school.

Exclusion is an extreme sanction and is only administered by the Headteacher, (or, in the absence of the Headteacher, the member of the SLT who is deputising on behalf of the Headteacher)

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](#)

An exclusion, whether fixed term or permanent may be used for any of the following, in line with statutory guidance and for behaviours that are infringements of Whimple Primary School's Behaviour Policy:

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

## **The decision to exclude**

Only the headteacher, or acting headteacher, can exclude a pupil from school. A permanent exclusion will be taken as a last resort.

A decision to exclude a pupil will be taken only:

- 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 others

Before deciding whether to exclude a pupil, either permanently or for a fixed period, the headteacher will:

- Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked
- Allow the pupil to give their version of events
- Consider if the pupil has special educational needs (SEN)

## **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 will follow Devon guidance 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 will follow Devon guidance 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.

## **Informing parents**

The headteacher will immediately provide the following information, in writing, to the parents of an excluded pupil:

- The reason(s) for the exclusion
- The length of a fixed-term exclusion or, for a permanent exclusion, the fact that it is permanent
- Information about parents' right to make representations about the exclusion to the governing board and how the pupil may be involved in this
- Where there is a legal requirement for the governing board to meet to consider the reinstatement of a pupil, and that parents have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend

The headteacher will also notify parents by the end of the afternoon session on the day their child is excluded that for the first 5 school days of an exclusion, or until the start date of any alternative provision where this is earlier, parents are legally required to ensure that their child is not present in a public place during school hours without a good reason. Parents may be given a fixed penalty notice or prosecuted if they fail to do this.

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. Work will be sent home either in a pack or via email in agreement with the parents/carers.

## **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. 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.
2. 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 \*. 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."

The School will consider police involvement for any of the above offences. 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 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 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, Equal Opportunity and Race Equality Policies.

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 Head 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.

The threat of a permanent exclusion will never be used as the means to coerce parents to move their child to another school.

## **Exercise of discretion**

In reaching a decision, the Head will always look at each case on its own merits. Therefore, a tariff system, fixing a standard penalty for a particular action, is both unfair and inappropriate. In considering whether permanent exclusion is the most appropriate sanction, the Head will consider

- a) the gravity of the incident, or series of incidents, and whether it constitutes a serious breach of the School's Promoting Positive Behaviour Policy
- 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' First Committee*, when it meets to consider the Headteacher's decision to permanently 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.

### **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.

To be read in conjunction with the Behaviour Policy and the Anti-Bullying Statement and Equalities policy.

### **Informing the governing board and local authority**

The headteacher will immediately notify the governing board and the local authority (LA) of:

- A permanent exclusion, including when a fixed-period exclusion is made permanent
- Exclusions which would result in the pupil being excluded for more than 5 school days (or more than 10 lunchtimes) in a term
- Exclusions which would result in the pupil missing a public examination

For a permanent exclusion, if the pupil lives outside the LA in which the school is located, the headteacher will also immediately inform the pupil's 'home authority' of the exclusion and the reason(s) for it without delay.

For all other exclusions, the headteacher will notify the governing board and LA once a term.

Responsibilities regarding exclusions is delegated to *Governors First Committee* consisting of at least 3 governors.

The *Governors First Committee* has a duty to consider the reinstatement of an excluded pupil.

For permanent exclusions, the LA is responsible for arranging suitable full-time education to begin no later than the sixth day of the exclusion.

## Considering the reinstatement of a pupil

The Governors First Committee 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 Governors First Committee 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 Governors First Committee 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 Governors First Committee 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 Governors First Committee 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 Governors First Committee 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 Governors First Committee 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 SEN are considered to be relevant to the exclusion
  - That, regardless of whether the excluded pupil has recognised SEN, parents have a right to require the LA to appoint an SEN expert to attend the review
  - Details of the role of the SEN expert and that there would be no cost to parents for this appointment
  - That parents must make clear if they wish for an SEN 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
- That 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 LA 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 Governors First Committee of its decision to not reinstate a pupil.

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.

### **Returning from a fixed-term exclusion**

Following a fixed-term exclusion, a re-integration meeting will be held involving the pupil, parents, a member of senior staff and other staff, where appropriate.

The following measures may be implemented when a pupil returns from a fixed-term exclusion:

- The school will discuss and agree a behaviour contract with the pupil, which will be monitored. A clear time scale will be set for this to run for.
- The school will set a review date to discuss the impact of the behaviour contract at the reintegration meeting.

### **Monitoring and Review**

The impact of this policy will be reviewed by the Governors First Committee.

The headteacher will provide the committee with regular monitoring reports which will help it to evaluate the effectiveness of the policy and procedures.

This policy and procedures will be reviewed and amended in the light of such evaluation and in consultation with representatives of all key stakeholders.