



WEST BUCKLAND  
PRIMARY SCHOOL  
AND NURSERY

# **West Buckland Primary School and Nursery**

## **Exclusion Policy**

## **Statement of intent**

At West Buckland Primary School and Nursery we understand that good behaviour and discipline is essential for promoting a high quality education.

Amongst other disciplinary sanctions, the school recognises that exclusion of pupils may be necessary where there has been a serious breach, or consistent breaches, of the school's Behavioural Policy. Excluding a pupil may also be required in instances where allowing the pupil to remain in school would be damaging to the education and welfare of themselves or others; in all cases, excluding pupils should only be used as a means of last resort.

The school has created this policy to clearly define the legal responsibilities of the Headteacher, governing board and LA when responding to pupil exclusions, to ensure that they are dealt with both fairly and lawfully, and in line with DfE statutory guidance.

This policy also aims to secure a pupil's right to an education despite having been excluded, by ensuring that appropriate arrangements are in place.

## **Legal framework**

This policy has due regard to the related statutory legislation including, but not limited to, the following:

- The Education Act 2002
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- The Education and Inspections Act 2006
- The Education Act 1996
- The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007
- The European Convention on Human Rights (ECHR)
- The Equality Act 2010

This policy also has due regard to statutory and non-statutory guidance, including, but not limited to, the following:

- DfE (2017) 'Exclusion from maintained schools, academies and pupil referral units in England'
- DfE (2016) 'Behaviour and discipline in schools'
- DfE (2015) 'Special educational needs and disability code of practice: 0 to 25 years'
- DfE (2018) 'Mental health and behaviour in schools'

This policy will be implemented in conjunction with the following school policies and procedures:

- Behavioural Policy

- Anti-Bullying Policy
- Pupil Code of Conduct/ Golden Rules
- Special Educational Needs and Disability (SEND) Policy
- Social, Emotional and Mental Health (SEMH) Policy
- Child Protection and Safeguarding Policy

## **Roles and responsibilities**

### The LA is responsible for:

Having due regard to the relevant statutory guidance when carrying out its duties in relation to the education of LAC.

Arranging suitable full-time education for any pupil of compulsory school age excluded permanently, in coordination with the school.

Reviewing and reassessing pupils' needs in consultation with their parents where they have an EHC plan and are excluded permanently, with a view to identifying a new placement.

Arranging for an independent review panel hearing to review the decision of the governing board not to reinstate a permanently excluded pupil where required.

Arranging the hearing without delay at a time, date and venue convenient for all parties.

Ensuring the independent review panel consists of three or five members as appropriate, which represent the required categories.

Ensuring all panel members and the clerk have received training within the two years prior to the date of the review.

If requested by parents, appointing a SEND expert to attend the panel and covering the associated costs of this appointment.

### The governing board is responsible for:

Providing information to the Secretary of State and LA about any exclusions within the last 12 months.

Arranging suitable full-time education for any pupil of compulsory school age excluded on a fixed-term basis.

Considering parents' representations about exclusions within 15 school days of receiving notice if the appropriate requirements are met.

Where an exclusion would result in a pupil missing a public examination or test, considering the exclusion before this date.

Considering whether it would be appropriate for a pupil to be permitted onto the school premises to sit the public examination or test.

Arranging the representation meeting at a time and date convenient to all parties, but in compliance with the statutory time limits.

Adhering to its responsibilities to consider the reinstatement of pupils.

Considering the interests and circumstances of the excluded pupil, including the circumstances in which they were excluded, and have due regard to the interests of others at the school.

Using the civil standard of proof (based on the 'balance of probabilities', it is more than likely that the fact is true) when establishing the facts relating to an exclusion.

Ensuring clear minutes are taken of the representation meeting.

Noting the outcome of the representation meeting on the pupil's education record, along with copies of relevant papers for future reference.

Notifying the pupil's parents, the Headteacher and LA of its decision and the reasons for it, without delay.

Where appropriate, informing parents of where to apply for an independent review panel.

Informing parents of relevant sources of information.

Ensuring a pupil's name is removed from the school admissions register, where appropriate.

Reconvening within 10 school days to reconsider reinstatement of a pupil where directed to do so by the exclusions review panel.

#### The Headteacher is responsible for:

Implementing good levels of discipline to ensure all pupils can benefit from the opportunities provided by education and to minimise potential exclusions.

Applying the civil standard of proof when establishing the facts in relation to an exclusion.

Complying with their statutory duties in relation to pupils with SEND when administering the exclusion process, as outlined in the Special Educational Needs and Disability (SEND) Policy.

Considering any contributing factors that are identified after an incident of poor behaviour has occurred, e.g. if a pupil has suffered bereavement, bullying or has a mental health issue.

Considering the use of a multi-agency assessment for a pupil who demonstrates persistent disruptive behaviour.

Reviewing the effectiveness of exclusions as a sanction, e.g. if a pupil has received multiple exclusions or is approaching the legal limit for exclusions in an academic year.

Considering what extra support may be needed to identify and address the needs of individual pupils, particularly those with SEND, eligible for FSM, LAC and those from certain ethnic groups.

Engaging effectively with parents in supporting the behaviour of pupils with additional needs.

Determining whether a pupil will be excluded on disciplinary grounds.

Withdrawing any exclusions that have not been reviewed by the governing board, where appropriate.

Ensuring any decision to exclude is lawful, rational, reasonable, fair and proportionate.

Complying with the requirements of the Equality Act 2010 when deciding whether to exclude a pupil.

Ensuring they have considered their legal duty of care when sending a pupil home following an exclusion.

Making the decision to exclude based on the evidence available at the time, regardless of any police investigation and/or criminal proceedings.

Notifying a pupil's parents without delay where the decision is taken to exclude the pupil, including the days on which the parents must ensure the pupil is not present in a public place at any time during school hours, as well as any other necessary information statutorily required.

Ensuring that all information provided to parents is clear and easily understood.

Notifying the governing board and LA of their decision to exclude a pupil where appropriate, as well as the pupil's home authority if required.

Notifying the governing board once per term of any exclusions not already notified.

Organising suitable work for excluded pupils where alternative provision cannot be arranged.

## **Grounds for exclusion**

The school will only exclude a pupil where it is absolutely necessary, and where all other possible disciplinary sanctions, as detailed in the school's Behavioural Policy, have failed to be successful.

The following examples of behaviour may underline the school's decision to exclude a pupil:

- Any incident which poses a risk to other pupils or members of staff, e.g. bringing a weapon onto the premises.
- Any incidents which breach the law.
- Persistent and severe bullying.
- Verbal and physical abuse.
- Constant disruption.
- A single, serious and major incident, e.g. serious assault on another individual leading to injury.

Pupils can be excluded on a fixed-period basis, i.e. up to 45 school days within a year, or permanently. Similarly, pupils can be permanently excluded following a fixed-period exclusion, where further evidence is presented.

In all cases, the Headteacher will decide which exclusion period a pupil will be subject to, depending on what the circumstances warrant.

## **The Headteacher's power to exclude**

Only the Headteacher has the power to exclude a pupil from the school, and is able to decide whether this is on a fixed-period or permanent basis. All exclusions will only be issued on disciplinary grounds.

The Headteacher is able to exclude pupils from the premises where their behaviour is disruptive during lunchtime. All lunchtime exclusions will be counted as half of a school day.

The Headteacher is able to consider a pupil's disruptive behaviour outside of the school premises as grounds for exclusion, in accordance with the school's Behavioural Policy.

All exclusions will be formally recorded on the pupil information system (SIMS).

At all times, the Headteacher will take into account their legal duties under the Equality Act 2010 and the 'Special educational needs and disability code of practice: 0 to 25 years', ensuring that they do not discriminate on any grounds, e.g. race, sex, disability, and will not increase the severity of a pupil's exclusion on these grounds.

The Headteacher will not issue any 'informal' or 'unofficial' exclusions, such as sending a pupil home to 'cool-off', regardless of whether or not the parents have agreed to this.

The Headteacher will not use the threat of exclusion as a means of instructing parents to remove their child from the premises.

Where SEND or SEMH issues are identified, an individual behaviour plan will be created. If the pupil continues to endanger the physical or emotional wellbeing of other pupils or staff, despite exhausting the graduated response process, then exclusion may be considered.

In accordance with the Equality Act 2010, under no circumstances will a pupil with identified SEND or SEMH issues be excluded before the graduated response process has been completed.

Where a pupil with SEND or SEMH issues is permanently excluded because of a SEND or SEMH-related need that could not be met at the school, detailed records will be kept highlighting that these pupils are closely tracked and show that the school has a close relationship with the pupil's next destination.

The Headteacher will work in conjunction with the parents of any pupil with additional needs, to establish the most effective support mechanisms.

### **Duty to inform parents**

Following the Headteacher's decision to exclude a pupil, they will immediately inform the parents, in person or by telephone, of the period of the exclusion and the reasons behind this.

The Headteacher will inform the parents in writing (electronically if written permission has been received from the parents for notices to be sent this way) of the following:

The reason(s) for the exclusion.

The length of the fixed-period exclusion or, for a permanent exclusion, the fact that it is permanent.

Their right to raise any representations about the exclusion to the governing board, including how the pupil will be involved in this and how the representations will be made.

Their right to attend a meeting where there is a legal requirement for the governing board to consider the exclusion, and the fact that they are able to bring an accompanying individual.

The arrangements that have been made for the pupil to continue their education prior to the organisation of any alternative provision, or the pupil's return to school.

Where the pupil is of compulsory school age, the Headteacher will inform the parents by the end of the afternoon session that for the first five days of the exclusion (or until the start date of any alternative provision or the end of the exclusion where this is earlier), parents are legally required to ensure that their child is not present in a public place during school hours without justification, and that parents may receive a penalty fine if they fail to do so.

### **Arranging education for excluded pupils**

For any fixed-period exclusions of more than five school days, the governing board will arrange suitable full-time education for the pupil, which will begin no later than the sixth day of exclusion.

### **Independent review panel**

The LA will review the governing board's decision not to reinstate a permanently excluded pupil, if the parents submit their application for this within the required time frame.

The LA will constitute an independent review panel of three or five members that represent the following categories:

A lay member to chair the panel. This individual will not have worked in any school in a paid capacity.

A current or former school governor who has served for at least 12 consecutive months in the last five years.

A Headteacher or individual who has been a Headteacher within the last five years.

Parents are required to submit their applications within 15 school days of the governing board's notification of their decision, or within 15 school days of the final determination of a discriminatory claim made under the Equality Act 2010.

Parents are able to request an independent panel review even if they did not make a case to, or attend, the governing board's initial consideration of the exclusion.

The LA will adhere to all statutory guidelines when conducting an independent panel review, as outlined in the DfE's statutory guidance document 'Exclusion from maintained schools, academies and pupil referral units in England' 2017.

## **Appointing a SEND expert**

If requested by parents in their application for an independent review panel, the LA will appoint a SEND expert to attend the panel and cover the associated costs of this appointment.

The LA will make arrangements to indemnify the SEND expert against any legal costs and expenses reasonably incurred as a result of any decisions or actions connected to the review and which are taken in good faith.

Parents have a right to request the attendance of a SEND expert at a review, regardless of whether the school recognises that their child has SEND.

Individuals will not serve as a SEND expert if they have, or at any time have had, any connection with the LA, school, parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their ability to act impartially; however, an individual is not taken to have such a connection solely because they are an employee of the LA.

The SEND expert will be a professional with first-hand experience of the assessment and support of SEND, as well as an understanding of the legal requirements on schools in relation to SEND. Examples of suitable individuals might include educational psychologists; specialist SEND teachers; SENCOs; and behaviour support teachers.

Recently retired individuals are not precluded from fulfilling this role; however, the LA will, during interview, assess the knowledge of such individuals in order to ensure that they have a good understanding of current practice and the legal requirements on schools in relation to SEND.

Whilst individuals are not automatically taken to be partial simply because they are an employee of, or contracted by, the LA, they will not have had any previous involvement in the assessment or support of SEND for the excluded pupil, or siblings of the excluded pupil. The LA will request that prospective SEND experts declare any conflict of interest at the earliest opportunity.

The final decision on the appointment of a SEND expert is for the LA to make, but it will take reasonable steps to ensure that parents have confidence in the impartiality and capability of the SEND expert. Where possible, this will include offering parents a choice of SEND expert. In order to meet its duties within the statutory time frame, the LA will consider maintaining a list of individuals capable of performing the role of SEND expert in advance of a request.

The LA will determine the amount of any payment in relation to the appointment of the SEND expert, such as financial loss, travel and subsistence allowances.



## Criminal investigations

The Headteacher will not postpone taking a decision to exclude a pupil due to a police investigation being underway, or any criminal proceedings that are in place.

The Headteacher will give particular consideration when deciding to exclude a pupil where evidence is limited by a police investigation, to ensure that any decision made is fair and reasonable.

If the governing board is required to consider the Headteacher's decision in these circumstances, they will not postpone the meeting and will make a decision based on the evidence available.

