



# **Exclusion Policy for Laurus Primaries**

Author: Mrs L Woolley

Last Policy Review Date: 11 May 2018

Next policy Review Date: 11 May 2019

Reviewed by

**The Laurus Vision is for everyone regardless of background or circumstance to be inspired, to thrive in all environments, to recognise what it takes to succeed, to set aspirational goals and work hard to achieve them.**

### **Exclusion Procedures**

The government supports Head Teachers in using exclusion as a sanction where it is warranted. Exclusions can be:

- lunchtime
- fixed term – from one session (half day) to 90 sessions (45 days) in one academic year
- permanent

Wherever possible a school should consider alternatives to exclusion.

Permanent exclusion should be used as a last resort and only be taken:

- in response to a serious breach, or persistent breaches of the school's behaviour policy
- where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school

Only the Head Teacher of a school can exclude a pupil and this must be on disciplinary grounds. This decision must be lawful, rational, reasonable, fair and proportionate.

'Informal' or 'unofficial' exclusions are unlawful even where the child's parent/s or carer/s are in agreement. All exclusions must be formally recorded.

A Head Teacher can withdraw an exclusion at any time before it has been reviewed by the governors.

### **The Head Teacher's powers to exclude:**

In exceptional circumstances, where further information has come to light a fixed term exclusion may be extended or converted into a permanent exclusion. In this case the initial fixed term letter should state this possibility. If a pupil is regularly receiving exclusions which are having no effect or if they are nearing the maximum 45 days limit the head teacher should consider other alternative sanctions and / or additional support / advice.

Lunchtime exclusions are counted as one session (half a day) and are used to determine whether a governing body meeting is triggered. These should only be used for a short period and have a start and finish date. If a pupil is in receipt of free school meals schools must make alternative arrangements to enable this.

Pupils can be excluded for behaviour outside of the school in accordance with the schools' behaviour policy.

When reaching the decision to exclude a Head Teacher must apply the civil standard of proof i.e. 'on the balance of probabilities' which means it is more likely than not that a fact is true.

Head Teachers must be mindful of their obligations under the Equality Act 2010 to not discriminate, harass or victimise pupils from groups with protected characteristics i.e. because of their:

- sex
- race
- disability
- religion or belief
- sexual orientation
- because of pregnancy / maternity
- because of gender reassignment

For disabled pupils, this includes a duty to make reasonable adjustments to policies and practices. Schools must also ensure that their policies and practices do not discriminate against pupils by unfairly increasing their risk of exclusion.

It is unlawful to exclude or increase the length of an exclusion for a non-disciplinary offence. A school cannot exclude a pupil:

- because they have additional needs or a disability the school feels it is unable to meet
- for low academic attainment / ability
- the action of a pupil's parent
- pupil failing to agree to or meet certain conditions before they are reinstated

### **Alternatives to exclusion:**

A pupil can move to a new school through a managed move or managed transfer. These can only be arranged with the agreement of the parent and the pupil. The threat of exclusion must never be used to influence parents to accept this or to remove their child from the school and seek a place at another school.

A managed move is where a pupil will have a trial placement at another school. If this fails he / she will return to their home school. A managed transfer is a one way move at the point of exclusion and in Cheshire East will involve support from the local authority and the Pupil Referral Unit. (see separate protocols / guidance)

Maintained schools have the power to direct a pupil off site for education which supports the improvement of their behaviour (Section 29A of the

Education Act 2002). Academies can place a pupil either full time or part time in another educational setting only with the agreement of their parents. If a school decides to use this power they must inform the parent/s or carer/s at least 2 days before the start of the placement with the following information:

- the address of the placement
- who the pupil should report to on the first day and the start and finish times
- the number of days for which the requirement is imposed
- the reasons for and the objectives of imposing this requirement

These placements must be reviewed at least every 30 days. They cannot continue beyond the end of the school year in which the placement commenced.

A reduced timetable in the pupil's own school could also be considered as an alternative to exclusion.

### **Establishing the facts:**

Investigations into an incident/s may involve a number of staff however the decision on whether to exclude is for a Head Teacher to take.

Pupils should be given the opportunity to present their case before the decision to exclude. In the case of a possible permanent exclusion a Head Teacher may decide in the first instance to issue a fixed term exclusion whilst investigating the incident.

A full investigation should take place to establish the facts in relation to the incident leading to the exclusion and should take into account:

- any witness statements
- the pupils own statement
- any other relevant evidence to determine on the balance of probabilities it is more likely or not that a fact is true.

A Head Teacher should consider if there were any contributing factors affecting the pupil at the time of the incident. These would include personal and home circumstances.

Head Teachers must take account of their legal duty of care when sending a pupil home following an exclusion.

Guidance is clear that early intervention should be used to address underlying causes of poor behaviour. This may include:

- an assessment of any special educational need or disability the pupil may have
- an assessment of whether appropriate support is in place

- the use of a Common Assessment Framework (CAF) / multi agency assessment

### **Children with SEND and Children Looked After:**

These are children who because of their additional needs / circumstances are particularly vulnerable to the impacts of exclusion.

Head Teachers should, as far as possible, avoid permanently excluding a child with a statement of Special Educational Needs and/or Disabilities. Head Teachers and governors must be mindful of their statutory duties in relation to children with special educational needs. Where a school has concerns about a pupil with SEND they should, in the first place, consult the relevant Local Authority Assessment & Monitoring Officer who will advise on the suitability of support for the pupil's SEND and / or consider what additional support or alternatives may be required.

Head Teachers should not exclude a cared for child without firstly consulting with the virtual school for Children Looked After.

### **The procedure for excluding a pupil:**

Once the decision to exclude has been made by the Head Teacher 'they must, without delays, notify parents / carers of the period of the exclusion and the reasons for it.' This may be by phone or face to face.

For a permanent exclusion the Head Teacher should meet with the parent / carer and the pupil and explain the reasons for his / her decision.

They must also, without delay, provide the following information in writing (by delivering the letter directly to the parents, leaving it at or posting it to their last known address). It must include

- the reason for the exclusion
- the period of the fixed term exclusion or if permanent the fact that it is a permanent exclusion
- the parent / carers right to make representation to the governing body and how the pupil may be involved in this
- how those representations can be made
- where there is a legal requirement for the governing body to consider the exclusion that the parents / carers have a right to attend and can bring a friend / advocate or legal representative (at their own expense)
- the legal responsibilities for parents for any exclusion between one and 10 sessions i.e. that parents / carers are legally required to ensure their child is not present in a public place during school hours without reasonable justification, and that parents may be given a fixed penalty notice or prosecuted if they fail to do so.
- the right on written request to see a copy of the child's record
- For all exclusions over 5 days what alternative education will be in place from the sixth day and where that will be held.

If the above information is not available to include in the exclusion letter it must be provided without delay and no later than 48 hours before the provision is to due to start. The only exception to this is where provision is arranged before the sixth day of an exclusion.

Guidance notes it is important for schools to help minimise the disruption that exclusion can cause to an excluded pupil's education. Whilst the statutory duty on governing bodies or local authorities is to provide full time education from the sixth day of an exclusion, there is obvious benefit in starting this provision as soon as possible. Where it is not possible, or appropriate to do this, schools are responsible for setting work from the first day of any exclusion. Work should be relevant and accessible for the pupil to complete at home.

#### **Administrative procedures following a fixed term exclusion:**

- Record the exclusion on SIMS
- Convene a meeting of the Committee of the Governing Body should the parent wish to make representation.
- Report to the governing body termly
- Email a copy of any exclusion letters of 6 days or more to the relevant Local Authority
- If a pupil has 30 days fixed term exclusion in any one academic year the school should inform the exclusions service at the relevant Local Authority

#### **Administrative procedures following a permanent exclusion**

- Record the exclusion on SIMS
- Within 1 day the Head Teacher **must** write to the parent,
- Inform the Clerk to the Committee of the Governing Body that a meeting will be required
- Advise the LA within one school day, with a copy of the letter issued to the parent and submit all appropriate paperwork to the relevant Local Authority

Schools are advised at all times to use the guidance issued by the Department for Education entitled '**Exclusion from maintained schools, Academies and pupil referral units in England 2012**' together with the sample letters available online.

*Please note that references to Head Teacher contained within this document refer to the Executive Head Teacher Primary who will work with the Head of School of each setting on an individual pupil basis.*