Edinburgh Primary School

Suspension and Permanent Exclusion Policy

Approved by Governing Body: July 26
Next review date: July 27

1. Aims

Our school aims to ensure that:

The exclusions process is applied fairly and consistently

The exclusions process is understood by governors, staff, parents and pupils

Pupils in school are safe and happy

Pupils do not become NEET (not in education, employment or training)

2. Legislation and statutory guidance

This policy is based on statutory guidance from the Department for Education: Suspension and permanent exclusion from maintained schools, academies and pupil referral units in England, including pupil movement.

It is based on the following legislation, which outline schools' powers to exclude pupils:

Section 51a of the Education Act 2002, as amended by the Education Act 2011

The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012

In addition, the policy is based on:

Part 7, chapter 2 of the Education and Inspections Act 2006, which looks at parental responsibility for excluded pupils

Section 579 of the Education Act 1996, which defines 'school day'

The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007, as amended by The Education (Provision of Full-Time Education for Excluded Pupils) (England) (Amendment) Regulations 2014

The Equality Act 2010

Children and Families Act 2014

Definitions

Suspension – when a pupil is removed from the school for a fixed period. This was previously referred to as a 'fixed-term exclusion'.

Permanent exclusion – when a pupil is removed from the school permanently and taken off the school roll. This is sometimes referred to as an 'exclusion'.

Off-site direction – when a governing board of a maintained school requires a pupil to attend another education setting temporarily, to improve their behavior.

Parent – any person who has parental responsibility and any person who has care of the child.

Managed move – when a pupil is transferred to another school permanently. All parties, including parents and the admission authority for the new school, should consent before a managed move occurs.

3. The decision to exclude

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

Our school is aware that off-rolling is unlawful. Ofsted defines off-rolling as:

> "…the practice of removing a pupil from the school roll without a formal, permanent exclusion or by encouraging a parent to remove their child from the school roll, when the removal is primarily in the interests of the school rather than in the best interests of the pupil."

We will not suspend or exclude pupils unlawfully by directing them off site, or not allowing pupils to attend school:

We are committed to following all statutory exclusions procedures to ensure that every child receives an education in a safe and caring environment.

A decision to suspend or 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 suspend or exclude a pupil, the headteacher will:

Consider all the relevant facts and evidence, including whether the incident(s) leading to the suspension/exclusion were provoked

Allow the pupil to give their version of events

Consider if the pupil has special educational needs (SEN) has a social worker or is currently looked after.

4. Definition

For the purposes of exclusions, school day is defined as any day on which there is a school session. Therefore, INSET or staff training days do not count as a school day.

5. Roles and responsibilities

5.1 The headteacher

Informing parents

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

The reason(s) for the suspension/exclusion

The length of the suspension, for a permanent exclusion, the fact that it is permanent

Information about parents' right to make representations about the suspension/exclusion to the governing board and how the pupil may be involved in this

How any representations should be made

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. This will include specifying on which days this duty applies.

Parents may be given a fixed penalty notice or prosecuted if they fail to do this.

If alternative provision is being arranged, the following information will be included when notifying parents of an exclusion, if possible:

The start date for any provision of full-time education that has been arranged

The start and finish times of any such provision, including the times for morning and afternoon sessions, where relevant

The address at which the provision will take place

Any information required by the pupil to identify the person they should report to on the first day

If the headteacher does not have all the information about the alternative provision arrangements by the end of the afternoon session on the first day of the suspension or permanent exclusion, they can provide the information at a later date, without delay and no later than 48 hours before the provision is due to start.

The only exception to this is where alternative provision is to be provided before the sixth day of a suspension or permanent exclusion, in which case the school reserves the right to provide the information with less than 48 hours' notice with parents' consent.

During the first five days of a suspension, if a pupil is not attending alternative provision, the headteacher will take steps to ensure accessible work is set. Google classroom will be utilised.

5.2 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 suspension is followed by a decision to permanently exclude a pupil;

Any suspension or permanent exclusion which would result in the pupil being suspended or permanently excluded for more than 5 school days (or more than 10 lunchtimes) in a term;

Any suspension or permanent exclusion which would result in the pupil missing a National Curriculum test.

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.

Within 14 days of receipt of a request, the governing board will provide the secretary of state and the LA with information about any exclusions in the last 12 months.

For a fixed-period exclusion of more than 5 school days, the governing board and LA will arrange suitable full-time education for the pupil. This provision will begin no later than the sixth day of the exclusion.

5.3 The LA

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

5.4 Informing the pupil's social worker and/or the virtual school head (VSH)

If a:

Pupil with a social worker is at risk of suspension or permanent exclusion, the headteacher will inform the social worker as soon as possible;

Pupil who is Looked-after (LAC) is at risk of suspension or exclusion, the headteacher will inform the VSH as soon as possible.

If the decision is made to suspend/permanently exclude, the social worker/VSH will also be informed as soon as possible.

6. Considering the reinstatement of a pupil

The governing body 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 suspension which would bring the pupil's total number of school days of exclusion to more than 15 in a term; or

It would result in a pupil missing a National Curriculum test

Where the pupil has been suspended, and the suspension does not bring the pupil's total number of days of suspension to more than 5 in a term, the governing body must consider any representations made by parents. However, it is not required to arrange a meeting with parents and it cannot direct the headteacher to reinstate the pupil.

Where the pupil has been suspended for more than 5 days, but less than 16 days, in a single term, and the parents make representations to the governing body committee, the committee will consider and decide on the reinstatement of a suspended pupil within 50 school days of receiving notice of the suspension. If the parents do not make representations, the governing committee is not required to meet and it cannot direct the headteacher to reinstate the pupil.

Where a suspension or permanent exclusion would result in a pupil missing a National Curriculum test, the governing body committee will consider the reinstatement of the pupil before the date of the test. 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.

In reaching a decision, the governing body 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 suspension/permanent exclusion.

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 governing body committee will notify, in writing, the headteacher, parents, social worker, VSH and the LA (or child's home LA) of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, and the governing body committee has decided not to reinstate the pupil, the notification of 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

The date by which an application for an independent review must be made (15 school days from the date on which notice in writing of the governing body committee's decision is given to parents)

The name and address to whom an application for a review and any evidence should be submitted

That any application should set out the grounds on which it is being made and that, where appropriate, it should include 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 permanent 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.

7. An independent review

If parents apply for an independent review within the legal timeframe, the LA will arrange for an independent panel to review the decision of the governing body committee 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 governing body committee of its decision to not reinstate a pupil, or, if after this time, within 15 school days of the final

determination of a claim of discrimination under the Equality Act 2010 regarding the permanent exclusion.

A panel of 3 or 5 members will be constituted with representatives from each of the categories below. Where a 5-member panel is constituted, 2 members will come from the school governors category and 2 members will come from the headteacher category. At all times during the review process, there must be the required representation on the panel.

A lay member to chair the panel who has not worked in any school in a paid capacity, disregarding any experience as a school governor or volunteer

Current or former school governors who have served as a governor for at least 12 consecutive months in the last 5 years, provided they have not been teachers or headteachers during this time

Headteachers or individuals who have been a headteacher within the last 5 years

A person may not serve as a member of a review panel if they:

Are a member of the LA, or governing board of the excluding school

Are the headteacher of the excluding school, or have held this position in the last 5 years

Are an employee of the LA or the governing body, of the excluding school (unless they are employed as a headteacher at another school)

Have, or at any time have had, any connection with the LA, school, governing body, parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality

Have not had the required training within the last 2 years (see appendix 1 for what training must cover)

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)

New evidence may be presented, though the school cannot introduce new reasons for the permanent exclusion not to reinstate. The panel must disregard any new reasons that are introduced. The panel will only take account of evidence available to the governing body committee at the time of making the decision.

The panel's decision can be decided by a majority vote. In the case of a tied decision, the chair has the casting vote.

Once the panel has reached a decision, all parties will be notified in writing without delay.

8. School registers

A pupil's name will be removed from the school admissions register if:

15 school days have passed since the parents were notified of the governing body committee's decision to not reinstate the pupil and no application has been made for an independent review panel, or

The parents have stated in writing that they will not be applying for an independent review panel

Where an application for an independent review has been made within 15 days, the governing board will wait until that review has concluded before removing a pupil's name from the register.

Where alternative provision has been made for an excluded pupil and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.

Where excluded pupils are not attending alternative provision, code E (absent) will be used.

The LA return will be completed for any child who is permanently excluded and as soon as the grounds for removal is met and no later than the removal of the pupil's name from the register.

9. Returning from a suspension

Following a suspension, a re-integration meeting will be held involving the pupil, parents and a member of senior staff. The meeting will focus on a fresh start.

The following measures may be implemented when a pupil returns from a suspension:

-behaviour targets to work towards

-Increased learning mentor support

-Agreed rewards/sanctions as appropriate

A further meeting will be held between parents and the class teacher to discuss the pastoral support plan.

10. Links with other policies

This exclusions policy is linked to our

- Behaviour policy
- SEN policy and information report

Appendix 1: Independent review panel training

The LA must ensure that all members of an independent review panel and clerks have received training within the 2 years prior to the date of the review.

Training must have covered:

The requirements of the primary legislation, regulations and statutory guidance governing exclusions, which would include an understanding of how the principles applicable in an application for judicial review relate to the panel's decision making

The need for the panel to observe procedural fairness and the rules of natural justice

The role of the chair and the clerk of a review panel

The duties of headteachers, governing boards and the panel under the Equality Act 2010

The effect of section 6 of the Human Rights Act 1998 (acts of public authorities unlawful if not compatible with certain human rights) and the need to act in a manner compatible with human rights protected by that Act