

WEXHAM COURT PRIMARY SCHOOL

EXCLUSION POLICY

2020 - 2021



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Responsibility:	Full Governing Body & Head Teacher
Approved By:	Full Governing Body & Head Teacher

WEXHAM COURT PRIMARY SCHOOL

EXCLUSION POLICY

This policy should be read in conjunction with the procedures adopted by the governing body for the management of pupil exclusion. It should also be read in conjunction with the following policies:

- SEND
- Health and safety
- Behaviour
- Safeguarding
- Admissions

1. OUR VISION

Wexham Court Primary school is an inclusive school and we aim to meet the needs of all learners. We aim to prepare *every child to become a successful individual in an ever evolving world* through our values of *resilience, communication, curiosity, creativity and community*.

We will do everything possible to avoid the need for exclusion by:

- Carrying out early intervention strategies, especially in the case of a pupil with SEND to ascertain that the pupil is receiving appropriate provision and support.
- We will consider the use of multi-agency assessment of pupils who demonstrate persistent disruptive behaviour.
- We will check whether there are mental health or family problems.
- We may request an early review of a pupil's education, health and care (EHC) plan – or we may ask for an interim/emergency review.

If nevertheless it becomes necessary to exclude a pupil, the current DFE statutory guidelines and regulations will be stringently followed.

Exclusion of a pupil is something that is taken very seriously and is only done so as a last option.

We are mindful that the government does not regard exclusion to be justified for:

- A breach of uniform or appearance, except for persistent defiance
- Minor incidents, such as failure to complete homework or to bring in money owed

- Poor academic work
- Lateness or truancy
- Misdeeds by a child who has special educational needs, except for very serious offences

2. EXCLUSION WILL BE USED IN THE FOLLOWING CASES

- For a major first offence, such as serious actual or threatened violence, sexual abuse or assault, supplying banned substances or carrying an offensive weapon. We need not postpone taking a decision on exclusion solely because a police investigation is underway. Our decision will be taken on the evidence available to the school at the time. The headteacher will give particular consideration to the fairness of exclusion if s/he is aware that some evidence is being withheld by the police.
- Where allowing a pupil to remain in school would be seriously detrimental to the education of other pupils, to the welfare of other pupils, staff or of the pupil him/herself.
- More usually it follows a series of breaches of the school's disciplinary code and after an exhaustive range of strategies to resolve the pupil's disciplinary problems have been tried and have failed.
- When the behaviour of pupils outside school is such that it can be considered as grounds for exclusion.

3. THE PRINCIPLES OF OUR EXCLUSION POLICY

Only the Head Teacher can exclude a pupil, and this will only ever be on disciplinary grounds.

- This power may not be delegated to anyone else.
- The Head Teacher may withdraw an exclusion that has not been reviewed by the governing board.

In line with the principles of administrative law, (including the European convention on human rights) any decision the Head Teacher makes to exclude a pupil must be:

- Lawful
- Rational
- Reasonable
- Fair
- Proportionate

- When establishing the facts in relation to a possible exclusion, the Head Teacher will always apply the civil standard of proof, that is, on the balance of probabilities.
- We will take care to ensure that a decision to exclude does not involve any kind of discrimination as defined by the Equality Act 2010.
- The school will always have due regard to its public sector equality duty.
- The school will be mindful of the prevent duty
- We will not exclude any pupil for non-disciplinary reasons.
- Exclusion will never be used informally or unofficially. This is against the law.
- The school does not use the practice of off-rolling as a measure to deal with behavioural problems.
- The Head Teacher does, however, have the right to direct a pupil for education off-site to improve behaviour, or to arrange a 'managed move' for the same reason. This will only be considered when there has been full consultation and agreement with parents and the receiving institution. The threat of exclusion will never be used to influence parents to remove their child from the school.
- Where practical, the Head Teacher will give the pupil an opportunity to present his/her case before taking the decision to exclude.
- When considering exclusion, the Head Teacher will take into account:
 - Possible short term mitigating circumstances, such as, bereavement, mental health issues
 - Where it comes to light that the pupil has been subject to bullying.
 - Whether the pupil comes into a category that is known to be a particularly vulnerable group (for example, pupils with SEND, free school meals (FSM) pupils; looked-after children; certain groups or a group with disproportionately high levels of exclusion; traveller children) and whether all preventative strategies have been fully used.
 - Whether a pupil has already had a number of fixed-term exclusions which appear to have been ineffective.

Duration of exclusions

The Head Teacher may exclude a pupil for one or more fixed periods not exceeding a total of 45 days in any one school year.

If a pupil is excluded for lunchtimes only, each lunchtime counts as a half day.

The Head Teacher may exclude a pupil permanently if s/he judges that the circumstances warrant it.

4. ACTION FOLLOWING ANY EXCLUSION

4.1 Informing parents

Following any exclusion of whatever type or duration, the Head Teacher will:

- Inform parents of the period and nature of the exclusion.
- Give the reasons for the exclusion.
- Advise parents about rights of representation about the exclusion to the governing board and how these representations may be made.
- Take account of his/her legal duty of care when sending a pupil home following exclusion. 'Holding' arrangements until the pupil can be collected may be necessary. (The School cannot force parents to collect an excluded child straightaway.)
- Inform parents what arrangements we have made to provide education for the pupil during the first five days of the exclusion. Work will be provided that is accessible and achievable by pupils outside of school.
- Make arrangements to provide suitable full time education from the sixth day onwards for pupils who have been given a fixed period exclusion lasting longer than five days. Once alternative provision has been arranged from the sixth day of the exclusion, the Head Teacher must by law inform the parents without delay of the start date, times and venue of the provision. This must be done no later than 48 hours before the alternative provision is to start. It is then the responsibility of the parents to make sure the pupil attends the alternative provision.

This information will be put in writing and will be sent either by email, by text, by delivering a letter directly to the parents, leaving it at their last known address or by posting it to this address. The information can also legally be sent home with the excluded pupil, but in this case we will always send a duplicate copy by a reliable alternative method. The information provided to parents will be clear and free of unnecessary jargon. Consideration will be given to translating the letter if the parent's first language is not English.

The school will explain to parents in writing that they have the right of appeal to the governing board concerning:

- Fixed term exclusions of more than five school days in a term or if any exclusion will mean that the pupil misses a public examination or national curriculum test.
- Permanent exclusions.

If the governors decide not to reinstate the pupil before the end of fixed term exclusion or not to reinstate following a permanent exclusion, then the parents can appeal to the LA.

Parents may make a claim to a court or tribunal if they believe the pupil has been discriminated against. The Equality Advisory Service will supply help and advice.

Where the excluded pupil is of compulsory school age, the school will also notify parents without delay and by the end of the afternoon session that for the first five days of an exclusion they are legally required to ensure that their child is not in a public place during school hours without reasonable justification and that they may be given a fixed penalty notice if they fail to do so.

Parents will be informed where fixed term exclusion has been extended or converted to a permanent exclusion. In such cases, the headteacher will write again to the parents explaining the reasons for the change and providing any additional information required.

4.2 Informing other bodies

For any exclusion of more than five days, be it in a single block of days, an accumulation of short exclusions of more than five days in any one term, or a permanent exclusion, the Head Teacher will also:

- Notify the LA giving the details of the exclusion and the reasons for it.
- Notify the governing board, giving the same details.

For a permanent exclusion, if the pupil lives outside the LA in which the school is located, the Head Teacher must also inform the 'home authority' of the exclusion without delay.

If any exclusion of even one day would cause a pupil to miss a public examination or national curriculum test, the Head Teacher will inform the LA and the governing board.

The Head Teacher will make a termly report to the governing board on all exclusions, covering:

- The number and type of exclusions.
- The reasons, gender, ethnicity and age of pupils and whether they were already on individual education programmes or pastoral support programmes.
- Repeated exclusions and the school's response to them.
- Links with parents.
- Truancy, punctuality and attendance figures.
- Follow-up action, including what has subsequently happened to permanently excluded pupils.

In addition, within 14 days of a request, maintained schools must report to the LA information about any exclusion within the last 12 months. In the case of academies, if a request is made, the same information should go to the regional schools commissioner (RSC)/Education Secretary.

5. THE POWERS OF THE GOVERNING BOARD

The governing board may review all the various categories of exclusions and will consider any representations made by the parents of the excluded pupil.

The governing board has no power to increase the severity of exclusion. It can, however, uphold exclusion or direct the pupil's reinstatement, either immediately or by a particular date.

However, in the case of fixed term exclusion that does not bring the pupil's total number of days of exclusion to more than five days in a term, the governing board cannot direct reinstatement and is not required to arrange a meeting with parents.

6. DISCIPLINE/APPEALS COMMITTEE

The governing board will establish a discipline committee when necessary, to which it delegates its functions in respect of exclusions (hereafter referred to as 'the committee').

- The committee must consist of at least three governors.
- All governors who serve on a discipline committee should receive training to help them discharge their duties. A clerk to the discipline committee is also appointed.
- The committee can hear more than one appeal at a single sitting, so long as it complies with the statutory time limits related to each one.
- If one of the committee has knowledge of the pupil(s) involved in the exclusion, or of the incident that led to that exclusion that could affect his/her impartiality, s/he should step down.
- The chair has a casting vote in all cases where an even number of governors are considering the case
- If the exclusion could result in a pupil missing a public examination, the committee will make every effort to meet before the date of the examination. Should this not be possible, then the chair of governors will consider the exclusion and decide whether to re-instate the pupil (these are the only circumstances in which the chair alone will review exclusion). When this occurs, the parents also have the right to make oral representations. If possible, the chair of governors will have the advice of the clerk (or an LA officer in the case of a maintained school). The committee or chair of governors may agree to allow the pupil back on to the school premises for the sole purpose of sitting an examination.

7. CONVENING AN APPEAL MEETING

7.1 Fixed term exclusions of 5–15 days

- If the parents of an excluded pupil make written representations, the committee will consider them.
- No statutory time limits apply to the consideration of such exclusions. However, in the case of a fixed term exclusion of more than 5 but not more than 15 school days, where the parents have made written representations, the committee will consider them within 50 school days of receiving the notice of exclusion.
- The committee has the discretion to agree to a meeting to discuss the exclusion, if this is requested by the parents.
- In the case of a fixed term exclusion of more than five but not more than 15 school days, the committee, once having agreed to hold a meeting, will hold that meeting between the 6th and the 50th school day after receiving notice of the exclusion from the Head Teacher.

7.2 Longer fixed term exclusions and permanent exclusions

- Should the exclusion be for more than 15 days, or the total of fixed term exclusions is more than 15 days that term, or if the exclusion is a permanent one, the committee has a duty to convene a meeting to be held between the 5th and the 16th school day after the date of receipt of a notice to consider the exclusion. The governing board need not postpone a meeting if a police investigation of a potential crime associated with the reason for the exclusion is underway.
- The parents, the Head Teacher and an LA officer, will be invited to the meeting at a time and a place convenient to all the participants, within the statutory time limit. The parent and the school may each be accompanied by a friend/advisor.
- The committee will ask for any written statements, including witness statements in advance of the meeting.
- The clerk will circulate in advance of the meeting any written statements and a list of those who will be present at the meeting to all parties, including the pupil if it is known that s/he will be present.

Note: if a pupil has a number of lunchtime exclusions in any one term which add up to more than five school days, the rules above also apply.

Before the meeting the governing board should:

- Not discuss the exclusion with any party outside the meeting.
- Identify the steps they will take to enable and encourage the excluded pupil to attend the meeting and speak on his/her own behalf.

8. CONDUCT OF THE MEETING

The meeting will be conducted as follows:

- No party to the review will be alone with the committee before, during or after the meeting.
- The clerk makes all introductions and explains the reason for the meeting and the powers held by the committee either to uphold an exclusion or re-instate the pupil.
- The school representative, usually the Head Teacher, will present the school's case.
- S/he can be questioned by all the other parties.
- The parents will be asked to give their reasons for appealing.
- Very often it is the friend/advisor (who may well be a lawyer) who presents the parents' case.
- The parents and the pupil, if present, will still be asked if they have anything to add.
- The other parties may question the parent and/or comment on what the family has said.
- An LA representative will provide information on support for pupils in the LA and how similar incidents have been dealt with by other schools, and can be questioned on these, but may not comment on the specific case being discussed.
- The school sums up its case.
- The parents or their representative sum up their case.
- All the parties except the committee and the clerk leave.

The committee will apply the 'balance of probabilities' standard of proof to the allegation of misconduct by the pupil. The more serious the allegation, the more convincing the substantiating evidence needs to be. This is not the same as requiring the criminal standard of 'beyond all reasonable doubt' to be applied.

9. THE DECISION – FIXED TERM EXCLUSION

The clerk may help the committee in making its decision by reference to notes taken, by reminding them of statutory procedures where relevant and by wording the decision letters afterwards.

In the case of fixed term exclusion, it is possible that the exclusion may already have expired and the pupil is back in school before the committee had met. In that case:

- The committee will decide whether or not, based on the evidence submitted, they would have reinstated the pupil during the fixed term exclusion.

- The outcome should be added to the pupil's record for future reference.

In rare cases, the parents may have already decided that they do not want their child reinstated whatever the committee's decision. Under those circumstances, the committee should simply record whether or not they believed that the Head Teacher's decision was justified. This view should be recorded and sent to the parents.

If the fixed term exclusion is still operative:

- The committee can either uphold the exclusion, which will have to run its course, or
- Direct the pupil's reinstatement either immediately or on a named date.

The committee through the clerk must inform the parents, the Head Teacher (and the LA in the case of a maintained school) of their decision in writing within one school day of the hearing, giving the reasons. They may not attach any conditions to any direction they have given the headteacher to reinstate the pupil.

The school has in place established procedures both for the return to school of a pupil whose fixed term exclusion has been upheld, and for the reinstatement of a pupil whose permanent exclusion has been overturned. On their return, a pupil first has a meeting with the Head Teacher or another senior member of staff, responsible for the pupil's welfare, along with his/her parents.

10. THE DECISION – PERMANENT EXCLUSION

We follow government guidance which sets out reasons why it would normally be inappropriate to reinstate a pupil. These are:

- Serious actual or threatened violence against another pupil or a member of staff.
- Sexual abuse or assault.
- Supplying illegal drugs.
- Persistent and malicious disruptive behaviour, including open defiance or refusal to conform to school rules.

When the committee decides to uphold a permanent exclusion, a letter to the parents will state:

- Their reason for the decision.
- The right of the family to refer the case to an independent review panel, together with the name and address of the person to whom any request for a review should be sent.
- The date by which any request for a review should be lodged.
- That any request for a review must set out the grounds on which the request is made.

- That any claims on grounds of disability discrimination can also be set out. If a case for discrimination is made, this will be referred to a first-tier tribunal or a county court.

If the committee decides to overturn the exclusion, as with fixed term exclusions, the decision as to whether there is to be an immediate reinstatement or a later date for this to occur will be conveyed to all parties. A note of the governing board's views on the exclusion will be placed on the pupil's school record with copies of relevant papers.

11. INDEPENDENT REVIEW PANELS

We advise parents that they have the right to request a review of the decision by the governor's committee to uphold a permanent exclusion through an independent review panel and how this can be done. The request will normally be made to the clerk of the review panel. Parents will also be given:

- A link to the statutory guidance on exclusions. The new version of the statutory guidance, which came into force on 1 September 2017, has a non-statutory guide for parents/carers, intended to support parents' understanding of the exclusion process. This is found in annex C of the guidance.
- A link to guidance on making a claim of discrimination to the first-tier tribunal.
- A link to the Coram Children's Legal Centre.
- If needed, links to local services such as the traveller education service or the local parent partnership.

The LA is responsible for managing and training independent panels concerning cases of permanent exclusion. An independent panel cannot overturn the decision of a governors' committee. They can uphold the decision or recommend that the governors reconsider. Further, if they have grounds for believing that the governors' decision was flawed in any way, they can quash the decision and direct the governing board to reconsider their decision.

The LA may appoint a clerk to provide advice to the panel and parties to the review on procedure, legislation and statutory guidance on exclusions. There is statutory guidance on who is eligible to be an independent review panel clerk. Their duties both before and during the hearing are clearly stated. The LA will ensure that all panel members and clerks have received training within the two years before the date of the review, and details are given in the guidance as to what that training must comprise.

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

The statutory guidance is also very specific concerning the role of the panel in reviewing the governing board's decision not to reinstate an exclude pupil.

The panel may decide to adjourn a hearing if there is an on-going police investigation and/or criminal proceedings associated with the exclusion. The panel will reconvene at the earliest opportunity but may adjourn more than once if necessary.

12. FOLLOW UP

Where an application for an independent review has been made within 15 school days, the pupil will remain on the school roll until the review has been held and its outcome known.

The headteacher will, however, remove the name of a permanently excluded pupil from the school admissions register if:

- 15 school days have passed since the parents were notified of the governing board's decision to uphold the permanent exclusion.
- The parents have stated in writing that they will not be applying for an independent review.

If the parents go on to make a discrimination claim which is upheld by either a first-tier tribunal or the county court, the pupil must be re-instated.

13. FINANCIAL IMPLICATIONS OF EXCLUSION

Should a pupil be permanently excluded, the appropriate sum allotted for that child's education will be deducted immediately from the school budget. The money will remain in the school budget for a little longer if the parent chooses to appeal to a governors' committee and then an independent review panel.

If an independent review panel requires the governing board to reconsider a permanent exclusion but the governing board upholds that exclusion, the school will be charged an additional £4,000 to the LA. The money will not be deducted if the parents decline a reinstatement offered by the school.

This is to ensure that the money follows the child to whatever form of education s/he receives after the exclusion. Special arrangements can be made if the child moves to another LA or would be about to move anyway from one phase of education to another, for example, at age 11.

14. PUPILS EXCLUDED FROM OTHER SCHOOLS

Should the LA place an excluded pupil with us, we will not refuse to take such a pupil unless we are full. However, if the child has already been excluded from two or more schools, then our governing board may refuse to take him/her.

This is a true version signed by

Mr J. Reekie, Chair of Governors

Signed:

Date:

Miss N Mehat Headteacher

Signed:

Date:

Review date: Summer 2021