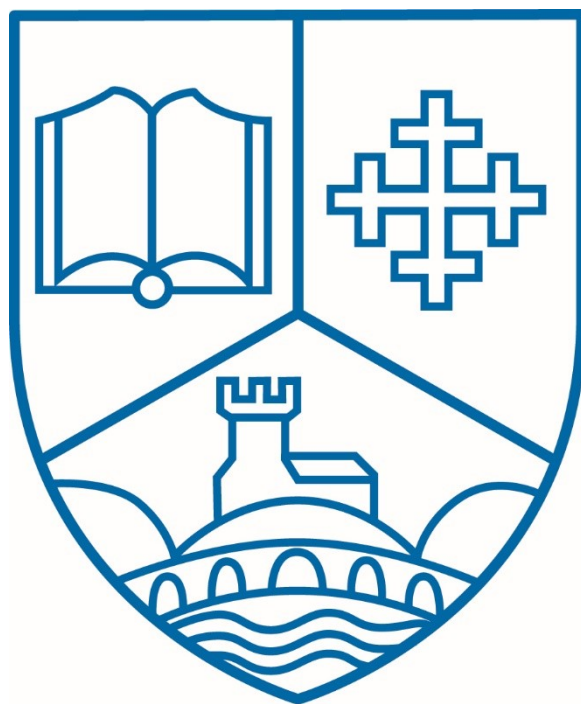


**BIDFORD ON AVON  
CHURCH OF ENGLAND  
PRIMARY SCHOOL**



**Exclusion Policy**

**March 2022**

**Review Date – March 2025**

# **Bidford on Avon C. of E. Primary School**

## **Exclusion policy March 2022**

### **Introduction**

The school's Behaviour Policy outlines expectations and key strategies for promoting good behaviour. The Government supports headteachers in using exclusion as a sanction where it is warranted. However, exclusion should only be used as a last resort, in response to a serious breach, or persistent breaches, of the school's Behaviour Policy (See Stage 4 level behaviours, Page 4 of the Behaviour Policy); and where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or other pupils in the school.

### **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, secure and happy
- Pupils do not become NEET (not in education, employment or training)

### **Legislation and statutory guidance:**

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

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](#)

### **Types of Exclusion**

There are two types of exclusion: Fixed Period and Permanent.

Fixed period exclusions may not be for more than 45 days in any one year. For the purposes of exclusions, the 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.

### **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 where appropriate
- Consider if the pupil has special educational needs (SEN)

Permanent exclusion is used as a last resort, when all other reasonable steps have been taken and, despite this, there is no improvement in the pupil's behaviour.

A pupil may, in extreme cases, be permanently excluded following a serious 'one off' breach of the school's behaviour policy. This could apply in the event of intimidation, violence or threatened violence against a pupil, member of staff or property.

The decision to exclude a pupil must be lawful, reasonable and fair. Care is taken not to discriminate against pupils on the basis of protected characteristics, such as disability or race. Particular consideration is given to the fair treatment of pupils from groups who are vulnerable to exclusion.

Exclusion will not be used for minor offences or as a punishment for non-attendance.

Where a pupil is excluded, steps will be taken to refer the pupil for support or to other relevant agencies

Persistent poor behaviour at lunchtime may result in a fixed period exclusion which covers the lunchtime break.

## **Roles and responsibilities**

### **The headteacher**

#### **Informing parents**

Following the decision to exclude a pupil, the Head teacher must notify the child's parents or guardians, either in person or by telephone, that their child has been excluded and the reasons for it.

They must also, without delay, provide parents with the following information in writing using the appropriate LA model letters:

- 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;
- how any representation should be made;
- where there is a legal requirement for the governing body 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;
- draw parents attention to relevant sources of free and impartial information

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 first five school days of an exclusions the school will also take reasonable steps as appropriate to set and mark accessible and achievable work for the pupil.

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

The headteacher will immediately notify the Chair of governors of all exclusions and the local authority (LA) of:

- any permanent exclusion;
- 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 body and LA once a term.

### **The governing board**

Responsibilities regarding exclusions is delegated to the Discipline Committee consisting of at least 3 nominated governors. A clerk to the Discipline Committee is also nominated.

The committee has a duty to consider the reinstatement of an excluded pupil where applicable.

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

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 committee has a duty to 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 committee of the governing body 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.

The meeting should be arranged at a time and place convenient for the parents within reason. The meeting should serve for the purpose of enabling the parents to have their views heard and for the parents to hear the views of the school. All efforts should be made to provide an environment which avoids intimidation and excessive formality.

Where an exclusion would result in a pupil missing a public examination, the 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.

Where the committee is legally required to consider reinstatement they should:

- Not discuss the exclusion outside of the meeting;
- ask for written evidence in advance;
- circulate any written evidence to all parties at least 5 school days in advance of the meeting;
- allow the parents and pupil to be accompanied by a friend or representative;
- make reasonable adjustments to support attendance;
- identify how the excluded pupil may provide their views taking into account their age and understanding;

The committee of the governing body 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 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 committee of the governing body 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 committee's 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 Disciplinary committee of its decision to not reinstate a pupil.

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.

- 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
- 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 board, 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)

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

### **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 exclusion panel'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, 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.

### **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 purpose of this meeting is to discuss the child's return to school and how this can be best managed. This will include a review of any interventions/support that has been put in place in order to reduce the risk of further exclusion.

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

- Agreeing a behaviour contract
- Putting a pupil 'on report'
- Designing a managed timetable or changes to playtime arrangements
- Establishing the rules and expectations of the pupil on their return
- Highlighting the systems and staffing in place to support their needs and the pupils responsibility in supporting them

### **Monitoring arrangements**

The headteacher monitors the number of exclusions every term and reports back to the governing body each term. They also liaise with the local authority to ensure suitable full-time education for excluded pupils.

This policy will be reviewed by the headteacher annually. At every review, the policy will be shared with the governing board.

### **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

### A summary of exclusion statutory actions and timetables.

<b>Fixed period exclusion 5 days or less (or 10 or fewer lunchtimes or half days)</b>	<b>Fixed period exclusion 6-15 days (block or accumulated in any one term) or more than 10 lunchtimes or half days</b>
<ul style="list-style-type: none"> <li>• Notification to parent/carer &amp; LA immediately. No requirement for GDC to meet unless parent/carer wishes to make a representation. (Although there is no legal requirement for governors to meet with parents to discuss the representation, good practice dictates that this should take place and preferably as soon as convenient to all.)</li> <li>• Notification to the GB once a term.</li> <li>• GDC has no power of reinstatement or mitigation, but must place the parent's/carer's statement on the pupil's record along with a copy of the GDC view.</li> <li>• There are no rights of Independent Appeal although appeals could be made to the First Tier Tribunal where disability discrimination is alleged to have taken place (see DFE Guidance pages 58-59).</li> <li>• The headteacher will arrange a reintegration interview following the expiry of any fixed period exclusion.</li> </ul>	<ul style="list-style-type: none"> <li>• The school shall make available, suitable full time education from day 6 of a block exclusion. Notification to parent/carer, GDC &amp; LA immediately.</li> <li>• No requirement for GDC to meet unless parent/carer wishes to make representations and then the GDC meets between 6 and 50 school days after receiving notification of the exclusion. NB However the LA would recommend that this is convened a.s.a.p.</li> <li>• Parents/carers may make representations to the GDC orally and/or in written form.</li> <li>• GDC has power to uphold, reinstate or mitigate the length of the exclusion (although time served will remain as served and a note will go on the pupil's file).</li> <li>• There are no rights of Independent Appeal although appeals could be made to the First Tier Tribunal where disability discrimination is alleged to have taken place (see DFE Guidance pages 58-59).</li> <li>• The headteacher must arrange a reintegration interview.</li> </ul>

**GDC = Governors' Discipline Committee; GD = Governing body**

<b>Long fixed period exclusions 16-45 days in any one term, block or accumulated</b>
<ul style="list-style-type: none"> <li>• The school shall make available, suitable full time education from day 6 where a block of exclusion exceeds 5 days.</li> <li>• Notification to parent/carer, GDC, &amp; LA immediately.</li> <li>• GDC to meet between 6 and 15 school days after the date of the receipt by the GDC of exclusion.</li> <li>• Parents may make representation to the GDC orally and/or in written form.</li> <li>• LA must be consulted in order to assess whether LA statement and/or attendance at the GDC is appropriate.</li> <li>• Full paperwork should be provided by the school to all the parties prior to the meeting.</li> <li>• LA may provide a written statement to all parties where applicable</li> <li>• The exclusion must be used to plan for the child and a Behaviour Action Plan should be put into place if not already initiated.</li> <li>• GDC has the power to uphold, reinstate or mitigate the length of the exclusion (although time served will remain as served and a note will be placed on the pupil file).</li> <li>• A copy of the GDC decision letter should be sent to the LA</li> <li>• There are no rights of Independent Appeal although appeals could be made to the First Tier Tribunal where disability discrimination is alleged to have taken place.</li> <li>• The headteacher must arrange a reintegration interview.</li> </ul>

<b>Permanent exclusion</b>
<ul style="list-style-type: none"> <li>• The LA shall make available, suitable full time education from day 6.</li> <li>• Notification to parent/carer, GDC &amp; LA immediately.</li> <li>• GDC to meet between 6 and 15 school days from the date of receipt by the GDC of a notice of exclusion.</li> <li>• Parents may make representation to the GDC orally and/or in written form.</li> <li>• The LA must be invited to the meeting at a time convenient to all parties.</li> <li>• Full paperwork should be provided by the school to all the parties 5 days prior to the meeting (see Section D).</li> <li>• LA will provide a written statement to all parties.</li> <li>• GDC has the power to uphold, or reinstate the pupil immediately or by a particular date. They should write to parents and LA informing them of their decision within one school day.</li> <li>• If reinstated, the exclusion remains on the pupil record as a matter of fact, but the reinstatement is added to the record.</li> <li>• Parents have the right to make an appeal to an Independent Review Panel (IRP) even if they do not attend the GDC meeting and/or if they do not wish their child to be reinstated to the excluding school. They must do this within 15 school days after the receipt of notification of the GDC decision to uphold the permanent exclusion.</li> <li>• IRPs will also hear appeals against permanent exclusion where disability discrimination is alleged to have taken place.</li> </ul>