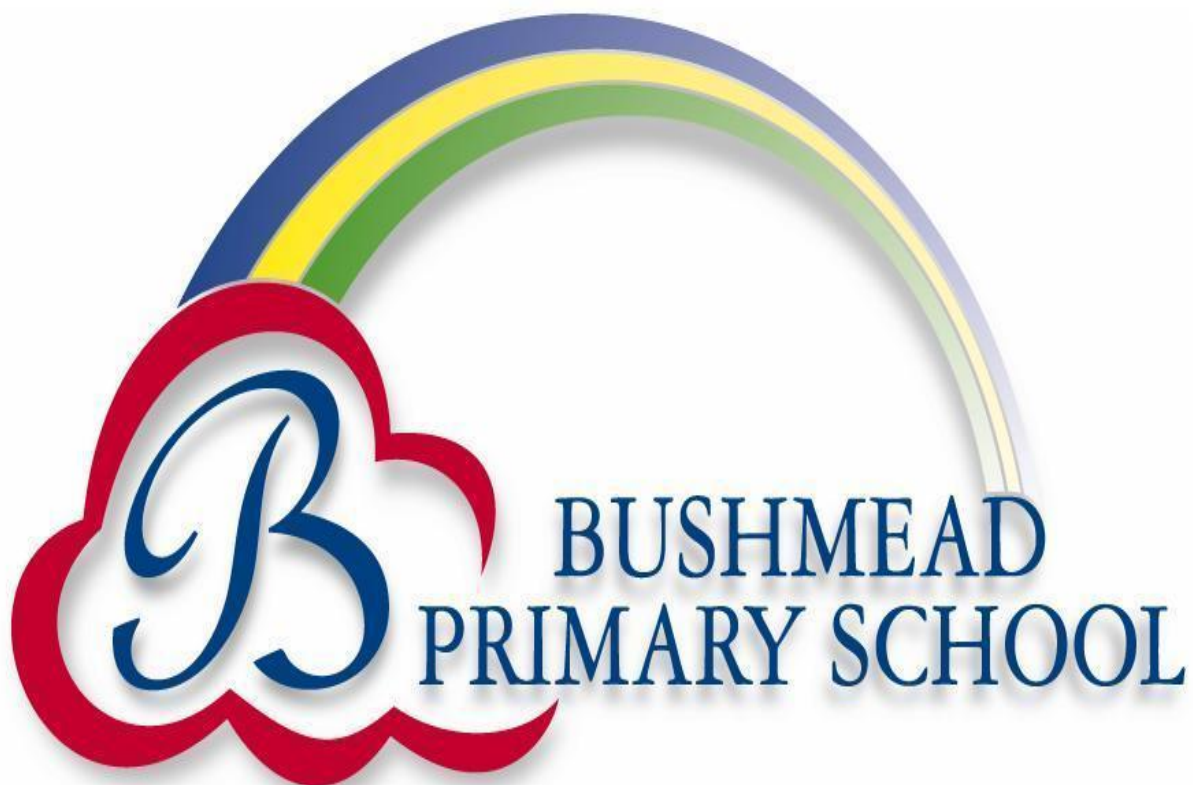


# SUSPENSION AND EXCLUSION POLICY



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| <b>Owned and Written by</b>  | <b>Kieron Leech</b>        | <b>Date</b><br><b>September</b><br><b>2022</b> |
| <b>Approved by</b>   | <b>Full Governing Body</b> | <b>Date</b><br><b>28/11/2022</b>               |
| <b>Date for Review</b>   | <b>Summer 2024</b>         |  |
| <b>This policy reflects the General Data Protection Regulation (UK GDPR) and Data Protection Act 2018.</b> |                            |  |

## **Purpose and Rationale**

At Bushmead Primary School, we believe that all children and adults deserve the right to learn and work in a calm, caring and pleasant environment where they feel safe, happy and valued. This policy outlines the sanctions that may be taken when there are serious breaches of the school's behaviour policy and/or the school rules. It also explains the procedures for exclusions and suspensions, and any return to school protocols which would be undertaken.

Exclusion or suspension is taken very seriously and is only used as a very last resort. The school's Senior Leadership Team (SLT) and Inclusion Team will endeavour to ensure there is early intervention for disruptive behaviour and utilise all available resources, staff and strategies before making the final decision of permanent exclusion or a suspension (see Procedures section for definitions). The Headteacher (or a member of the SLT acting in absence of the Headteacher) is the only person who can take the decision to exclude or suspend a pupil from school. The decision to apply such a sanction would be in response to a serious breach or persistent breaches of the school's behaviour policy and if allowing the pupil to remain in school would be detrimental to the welfare or education of the pupil or others in the school.

No exclusion or suspension will be made due to a child's attainment or ability, or because of actions from their parent or carer. No child will be discriminated against, harassed or victimised due to their sex, race, disability or religious beliefs.

## **Aims**

Bushmead Primary School aims to ensure that:

- All possible avenues are explored before applying an exclusion or suspension
- The exclusion/suspension process is applied fairly and consistently
- The exclusion/suspension process is understood by governors, staff, parents and pupils
- Pupils in school are safe and happy
- Pupils do not become 'not in education'

## **Procedures**

### **1. The Decision to Exclude or Suspend**

Only the Headteacher (or the acting Headteacher) can exclude or suspend a pupil from school. A permanent exclusion will only be taken as a very 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 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 exclude or suspend 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 or suspend a pupil, the Headteacher will:

- Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion/suspension were provoked
- Allow the pupil to give their versions of events
- Consider if the pupil has special educational needs (SEN)

## 2. Definitions

For the purposes of exclusions and suspensions, ‘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.

Sanctions for exclusion can be defined in three ways. Internal exclusion, suspension and permanent exclusion.

*Internal Exclusion* – An internal exclusion is an internal process and is used to remove a pupil from class, not from the school site, for disciplinary reasons. This is not a legal form of exclusion, unlike suspensions and permanent exclusions. An internal exclusion may be used where a pupil’s behaviour is escalating and a more serious sanction is required but there are not yet grounds for a suspension. This may be a number of incidents or could be one, serious incident where the Headteacher does not feel a suspension is yet appropriate.

*Suspension* - Suspensions are when a pupil is excluded for a set period of time. This was previously referred to as a fixed-term exclusion. A pupil may be suspended for one or more fixed periods up to a maximum of 45 school days in a single academic year. Suspensions may be given due to:

- Persistent disruptive behaviour
- Physical assault against an adult
- Physical assault against a pupil
- Verbal abuse or threatening behaviour against an adult
- Verbal abuse or threatening behaviour against a pupil
- Severe damage to equipment, buildings or property
- Bullying

*Permanent Exclusion* – A permanent exclusion is when a pupil is removed from the school permanently and taken off the school roll. The local authority must then arrange full-time arrangement from the 6<sup>th</sup> day. A permanent exclusion may be a result of:

- Any of the reasons stated above for suspensions (dependent upon severity of the offence)
- Serious breaches of the school's behaviour policy and rules, whether this be a one off or persistent
- The pupil remaining in school seriously harming the education or welfare either of themselves or others

### **3. Roles and Responsibilities**

#### **3.1 – The Headteacher**

##### **Informing parents**

If a pupil is at risk of suspension or exclusion the headteacher will inform the parents as early as possible, in order to work together to consider what factors may be affecting the pupil's behaviour, and what further support can be put in place to improve the behaviour.

If the headteacher decides to suspend or exclude a pupil, the parents will be informed of the period of the suspension or exclusion and the reason(s) for it, without delay.

The Headteacher will immediately provide the following information, in writing, to the parents of an excluded or suspended pupil:

- The reason(s) for the suspension or exclusion
- The length of the suspension or, for a permanent exclusion, the fact that it is permanent
- Information about parents' right to make representations about the suspension or permanent exclusion to the governing board and how the pupil may be involved in this
- 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 suspended or excluded that for the first 5 school days of an exclusion, or until the start date of any alternative provision or the end of the suspension, 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.

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

- 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

Where this information on alternative provision is not reasonably ascertainable by the end of the afternoon session, it may be provided in a subsequent notice, but it will be provided 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 information can be provided with less than 48 hours' notice with parents' consent.

### **Cancelling suspensions and permanent exclusions**

**The headteacher may cancel a suspension or permanent exclusion that has already begun, but this will only be done where it has not yet been reviewed by the governing board. Where there is a cancellation:**

- **The parents, governing board and LA will be notified without delay**
- **Where relevant, any social worker and VSH will notified without delay**
- **Parents will be offered the opportunity to meet with the headteacher to discuss the cancellation**
- **The pupil will be allowed back in school**

### **Informing the governing board**

The headteacher will, without delay, notify the governing board of:

- Any 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 a total of 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 or public exam

The headteacher will notify the governing board once per term of any other suspensions of which they have not previously been notified, and the number of suspensions and exclusions which have been cancelled, including the circumstances and reasons for the cancellation.

### **Informing the local authority (LA)**

The headteacher will notify the LA of all suspensions and permanent exclusions without delay, regardless of the length of a suspension.

The notification will include:

- The reason(s) for the suspension or permanent exclusion
- The length of a suspension or, for a permanent exclusion, the fact that it is permanent

For a permanent exclusion, if the pupil lives outside the LA in which the school is located, the headteacher will also, without delay, inform the pupil's 'home authority' of the exclusion and the reason(s) for it.

### **Informing the pupil's social worker and/or 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 early as possible
- **Pupil who is a looked-after child (LAC)** is at risk of suspension or exclusion, the headteacher will inform **the VSH** as early as possible

This is in order to work together to consider what factors may be affecting the pupil's behaviour, and what further support can be put in place to improve the behaviour.

If the headteacher decides to suspend or permanently exclude a pupil with a social worker / a pupil who is looked after, they will inform the pupil's social worker / the VSH, as appropriate, without delay, that:

- They have decided to suspend or permanently exclude the pupil
- The reason(s) for the decision
- The length of the suspension or, for a permanent exclusion, the fact that it is permanent
- The suspension or permanent exclusion affects the pupils ability to sit a National Curriculum test or public exam (where relevant)

The social worker / VSH will be invited to any meeting of the governing board about the suspension or permanent exclusion. This is so they can provide advice on how the pupil's background and/or circumstances may have influenced the circumstances of their suspension or permanent exclusion. The social worker should also help ensure safeguarding needs and risks and the pupil's welfare are taken into account.

### **Providing education during the first 5 days of a suspension or permanent exclusion**

During the first 5 days of a suspension, if the pupil is not attending alternative (AP) provision, the headteacher will take steps to ensure that achievable and accessible work is set and marked for the pupil. Online pathways such as Google Classroom may be used for this. If the pupil has a special educational need or disability, the headteacher will make sure that reasonable adjustments are made to the provision where necessary.

If the pupil is looked after or if they have a social worker, the school will work with the LA to arrange AP from the first day following the suspension or permanent exclusion. Where this isn't possible, the school will take reasonable steps to set and mark work for the pupil, including the use of online pathways.

### **3.2 The governing board**

Responsibilities regarding suspensions and exclusions are delegated to the Governors' Disciplinary Sub-Committee consisting of at least 3 governors.

The Governors' Disciplinary Sub-Committee has a duty to consider parents' representations about a suspension or permanent exclusion. It has a duty to consider the reinstatement of a suspended or permanently excluded pupil in certain circumstances.

Within 14 days of receipt of a request, the governing board will provide the secretary of state and Local Authority (Luton Borough Council) with information about any exclusions in the last 12 months.

For any suspension of more than 5 school days, the governing board will arrange suitable full-time education for the pupil. This provision will begin no later than the sixth day of the suspension.

### **3.3 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.

For pupils who are LAC or have social workers, the LA and the school will work together to arrange suitable full-time education to begin from the first day of the exclusion.

## **4. Considering the Reinstatement of a Pupil**

The governing board will consider the reinstatement of a suspended or permanently ~~an~~ excluded pupil within 15 school days of receiving the notice of the suspension or exclusion if:

- The exclusion is permanent
- It is a suspension which would bring the pupil's total number of days out of school to more than 15 in a term
- It would result in a pupil missing a public examination or 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 board 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 board, the governing board 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 board 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 public exam or National Curriculum test, the governing board will, as far as reasonably practicable, consider and decide on the reinstatement of the pupil before the date of the exam or test. If this is not

practicable, the chair of the governing board may consider the suspension or permanent exclusion and decide whether or not to reinstate the pupil.

The following parties will be invited to a meeting of the governing board and allowed to make representations or share information:

- Parents, or the pupil if they are 18 or over (and, where requested, a representative or friend)
- The pupil, if they are aged 17 or younger and it would be appropriate to their age and understanding (and, where requested, a representative or friend)
- The headteacher
- The pupil's social worker, if they have one
- The VSH, if the pupil is looked after
- A representative of the local authority

The governing board will try to arrange the meeting within the statutory time limits set out above and must try to have it at a time that suits all relevant parties. However, its decision will not be invalid simply on the grounds that it was not made within these [time limits](#).

The governing board can either:

- Decline to reinstate the pupil, or
- Direct the reinstatement of the pupil immediately, or on a particular date (except in cases where the board cannot do this – see earlier in this section)

In reaching a decision, the governing board will consider:

- Whether the decision to suspend or permanently exclude was lawful, reasonable, and procedurally fair
- Whether the headteacher followed their legal duties
- The welfare and safeguarding of the pupil and their peers
- Any evidence that was presented to the governing board

They will decide whether or not a fact is true 'on the balance of probabilities'.

Minutes will be taken of the meeting, and a record kept of the evidence that was considered. The outcome will also be recorded on the pupil's educational record, and copies of relevant papers will be kept with this record.

The governing board will notify, in writing, the following stakeholders of its decision, along with reasons for its decision, without delay:

- The parents, or the pupil, if they are 18 or older
- The headteacher
- The pupil's social worker, if they have one
- The VSH, if the pupil is looked after
- The local authority
- The pupil's home authority, if it differs from the school's



Where an exclusion is permanent and the governing board has decided not to reinstate the pupil, the notification of decision will also include the following:

- The fact that it is a permanent exclusion
- 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 board's decision is given to parents)
- The name and address to which an application for a review and any written 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 special educational needs (SEN) are considered to be relevant to the permanent exclusion
- That, regardless of whether the excluded pupil has recognised SEN, parents have a right to require the Local Authority to appoint an SEN expert to advise the review panel
- 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 unlawful 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. Also that any 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

## **5. 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 governing board 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.

- 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 a Headteacher 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/director 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 board, 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)

The panel must consider the interests and circumstances of the pupil, including the circumstances in which the pupil was permanently excluded, and have regard to the interests of other pupils and people working at the school.

Taking into account the pupil's age and understanding, the pupil or their parents will be made aware of their right to attend and participate in the review meeting and the pupil should be enabled to make representations on their own behalf, should they desire to.

Where a SEN expert is present, the panel must seek and have regard to the SEN expert's view of how SEN may be relevant to the pupil's permanent exclusion.

Where a social worker is present, the panel must have regard to any representation made by the social worker of how the pupil's experiences, needs, safeguarding risks and/or welfare may be relevant to the pupil's permanent exclusion.

Where a VSH is present, the panel must have regard to any representation made by the social worker of how any of the child's background, education and safeguarding needs were considered by the headteacher in the lead up to the permanent exclusion, or are relevant to the pupil's permanent exclusion.

Following its review, the independent panel will decide to do 1 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 if it judges that the decision was flawed)

New evidence may be presented, though the school cannot introduce new reasons for the permanent exclusion or the decision not to reinstate. The panel must disregard any new reasons that are introduced.

In deciding whether the decision was flawed, and therefore whether to quash the decision not to reinstate, the panel must only take account of the evidence that was available to the governing board at the time of making its decision. This includes any evidence that the panel

considers would, or should, have been available to the governing board and that it ought to have considered if it had been acting reasonably.

If evidence is presented that the panel considers it is unreasonable to expect the governing board to have been aware of at the time of its decision, the panel can take account of the evidence when deciding whether to recommend that the governing board reconsider reinstatement.

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 its decision, the panel will notify all parties in writing without delay.

This notification will include:

- The panel's decision and the reasons for it
- Where relevant, details of any financial readjustment or payment to be made if the governing board does not subsequently decide to offer to reinstate the pupil within 10 school days
- Any information that the panel has directed the governing board to place on the pupil's educational record

## **6. 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.

## **7. Returning from a Suspension**

Following a suspension, a reintegration meeting will be held involving the pupil, parents, a member of senior staff and other staff, where appropriate.

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

- Internal isolation
- Putting a pupil 'on report'
- Regular updates to parents and review of progress

- Further support from the Central Area Partnership 'Next Steps' provision
- Support from other outside agencies
- Pastoral support
- Agreed appropriate use of TeamTeach training for those adults in school who have the correct qualification

## **8. Links with other Policies**

This exclusion policy is linked to our:

- Positive Management of Pupil Behaviour Policy
- SEND Policy
- Use of Force to Control or Restrain Pupils Policy

This Policy references the following document:

[Department of Education](#)

[Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement](#)

## **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