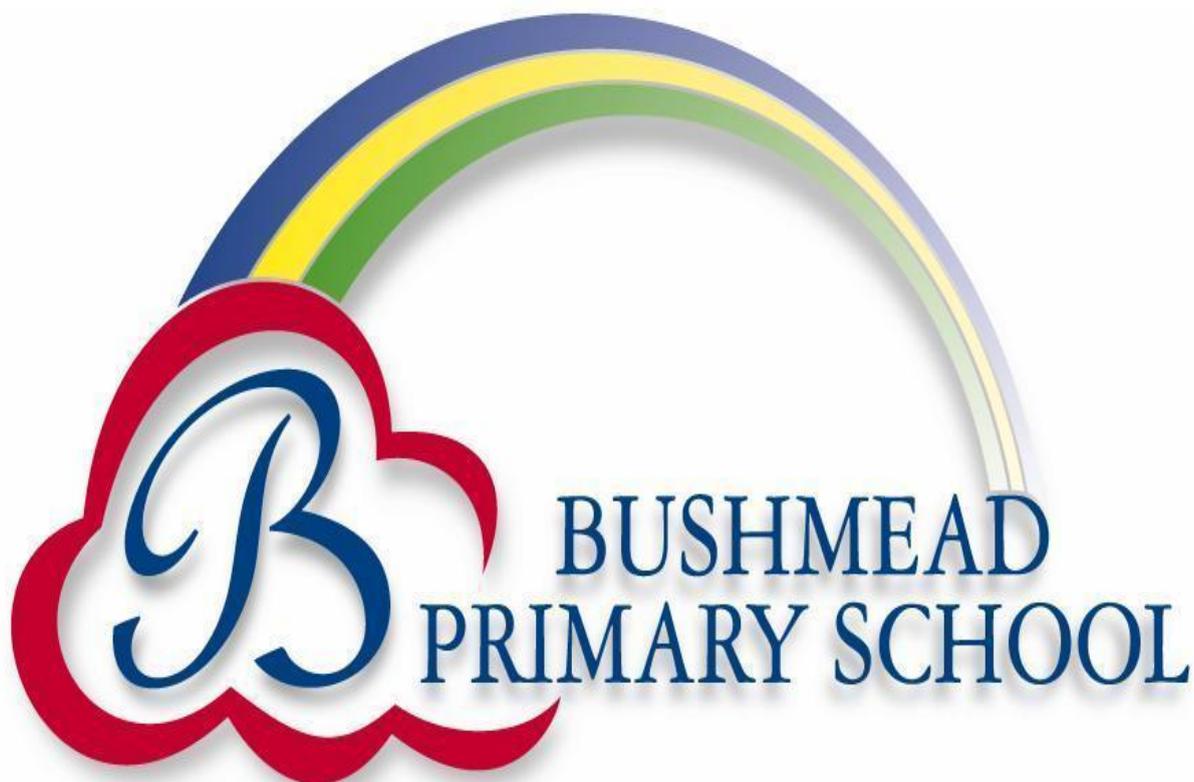


# EXCLUSION POLICY



<b>Owned and Written by</b>	<b>Kieron Leech</b>	<b>Date</b> <b>June 2020</b>
<b>Approved by</b>	<b>Governing Body</b>	<b>Date</b> <b>17th July 2020</b>
<b>Date for Review</b>	<b>June 2022</b>	
<p>This policy has been updated to reflect the General Data Protection Regulation (GDPR) and Data Protection Act 2018, and it supersedes the HM Government Information Sharing Guidance for Practitioners and Managers published in March 2015. <a href="https://ico.org.uk/global/data-protection-and-coronavirus-information-hub/">https://ico.org.uk/global/data-protection-and-coronavirus-information-hub/</a></p>		

## **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 each type of exclusion and any return to school protocols which would be undertaken.

Exclusion 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 an exclusion – whether this be internal, fixed-term or permanent (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 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 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.

## **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](#)

## **Aims**

Bushmead Primary School aims to ensure that:

- All possible avenues are explored before applying any form of exclusion
- 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 ‘not in education’

## **Procedures**

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

Only the Headteacher (or the acting Headteacher) can exclude 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 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 versions of events
- Consider if the pupil has special educational needs (SEN)

### **2. Definitions**

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.

Sanctions for exclusion can be defined in three ways. Internal exclusion, fixed-term exclusion 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 fixed-term 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 fixed-term exclusion. This may be a number of incidents or could be one, serious incident where the Headteacher does not feel a fixed-term exclusion is yet appropriate.

*Fixed-term Exclusion* – Fixed-term exclusions are where a pupil is excluded for a set period of time. A pupil may be excluded for one or more fixed periods up to a maximum of 45 school days in a single academic year. Fixed-term exclusions 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 where a pupil is expelled. 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 fixed-term exclusions (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**

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

- 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
- 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. 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:

- 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 an exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent.

### **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 fixed-period exclusion is made permanent
- 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 board and LA once a term.

### **3.2 The governing board**

Responsibilities regarding exclusions is delegated to Governors' Disciplinary Sub-Committee consisting of at least 3 governors.

The Governors' Disciplinary Sub-Committee has a duty to consider the reinstatement of an excluded pupil (see section 4).

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 a fixed-period exclusion 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 exclusion.

### **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.

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

The governing board 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 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 governing board 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.

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

The governing board 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 governing board 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 governing board 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 governing board'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 a 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.

## **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.

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)
- 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.

## **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 Fixed-Term Exclusion**

Following a fixed-term exclusion, 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 fixed-term exclusion:

- 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 from the school's Specialist Behaviour Support Assistant

- 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

## **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