



Suspension and Exclusion Policy 2023

1. Aims

Our school aims to ensure that:

- The exclusions process is applied fairly and consistently
- The exclusions process is understood by governors, staff, parents and pupils
- Pupils in school are safe and happy
- Pupils do not become NEET (not in education, employment or training)
- The exclusions policy reflects the vulnerabilities and requirements of the school community and the needs of school environment

2. 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:

- Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement Guidance for maintained schools, academies, and pupil referral units in England September 2023
- 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
- Keeping Children safe in Education
- Alternative Provision Statutory guidance for local authorities January 2013

3. The decision to suspend for fixed term or permanently exclude

At John Chilton School we understand that pupils' behavioural, SEMH, cognitive need, past experiences can impact on behaviour. Interventions, plans and support are put in place, with de-escalation strategies, analysis of triggers and MDT involvement ensure a shared understanding of these needs. This ensures that responses to pupils' behaviours are proportionate, pro-active and supportive to minimise risk of any suspensions or exclusions where possible. The decision to suspend for a fixed term or permanent exclusion is taken as a last resort after much input and evidential fact finding and consideration of other pupils' needs and the safety of whole community.

Fixed term suspension:

A suspension, where a pupil is temporarily removed from the school is an essential behaviour management tool and in our school cohort it is vital as a last resort to protect our vulnerable community and reflect the limitations and issues of school environment .

The Headteacher will consider all evidence to consider a suspension for up to 5 days, seeking advice and informing all relevant parties, especially families.

A pupil may be suspended for one or more fixed periods (up to a maximum of 45 school days in a single academic year). A suspension does not have to be for a continuous period.

A suspension can also be for parts of the school day.

Work will be sent home and efforts made by school to keep in contact with family to check their welfare.

For a fixed-period suspension that is needed to extend to 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.

Permanent exclusion:

A permanent exclusion is when a pupil is no longer allowed to attend a school (unless the pupil is reinstated). The decision to exclude a pupil permanently should only be taken by headteacher following this policy and DFE guidance.

For any permanent exclusion, headteachers should take reasonable steps to ensure that work is set and marked for pupils during the first five school days where the pupil will not be attending alternative provision.

Work sent home and welfare checks made until alternative provision can be found, following DFE and LA guidance.

For **either** fixed term suspensions or permanent exclusions:

Only the headteacher, or acting headteacher, can exclude a pupil from school. A permanent exclusion will be taken as a last resort. The school will make every effort to consider alternative options such as increased ratio of adults, bespoke curriculum and working space, flexible timings and home learning before the decision to exclude is confirmed. The school will always seek advice from other specialists but act in timely fashion to safeguard all parties. The school will always liaise with families in succinct and timely manner.

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.”

John Chilton School is committed to following all statutory exclusions procedures to ensure that every child receives an education in a safe and caring environment.

A decision to suspend **or** exclude a pupil will be taken only:

- In response to serious or persistent breaches of the school’s behaviour policy, **and**
- If allowing the pupil to remain in school would seriously harm the safeguarding, 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
- Consider the pupil’s SEND
- Consider the pupils’ current SEMH, family circumstances, adverse childhood experiences that might have a bearing on the behaviours
- Discuss with relevant staff and parties, analysing past concerns, patterns and triggers of behaviour

The school will take account of any SEND when considering whether or not to exclude a pupil, and will take “reasonable steps” to ensure that a pupil is not treated less favourably for reasons related to their disability.

Reasonable steps include:

- Differentiation in the school’s behaviour policy
- Developing strategies to prevent the pupil’s behaviour
- Requesting external help with the pupil
- In some cases, there might be delay due to seeing advice from LA or other professionals, this is avoided where possible but always communicated as necessary.
- Staff training

A pupil’s behaviour outside school can be considered grounds for a suspension or permanent exclusion. Any decision of a headteacher, including suspension or permanent exclusion, must be

made in line with the principles of administrative law, i.e. that it is: lawful reasonable; fair; and proportionate.

When establishing the facts in relation to a fixed term suspension **or** permanent exclusion decision the headteacher must apply the civil standard of proof, i.e. 'on the balance of probabilities' it is more likely than not that a fact is true, rather than the criminal standard of 'beyond reasonable doubt.' This means that the headteacher should accept that something happened if it is more likely that it happened than that it did not happen. The headteacher must take account of their legal duty of care when sending a pupil home following an exclusion.

Headteachers should also take the pupil's views into account, considering these in light of their age and understanding, before deciding to exclude, unless it would not be appropriate to do so.

Schools have a statutory duty to make arrangements for safeguarding and to promote the welfare of their pupils, working with safeguarding partners in light of any fixed term suspension or permanent exclusion.

4. Definition

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

5.Roles and responsibilities

The headteacher

All fixed term suspensions and permanent exclusions are reported to relevant parties by the headteacher and data is formally recorded for governor reviews each term.

Informing parents

Where a **fixed term suspension** has been decided, the headteacher will immediately inform family. and within 3 days this must also be recorded in writing. The headteacher will liaise with all relevant school colleagues to share the information, timeframe, structured plan for return and securing strategies and expectations for return.

Where a **permanent exclusion** has been decided the headteacher will immediately provide the following information, in writing, to the parents of an excluded pupil, as well as completing relevant LA paperwork in timely fashion, according to requirements and legal duty, and also inform the governors:

- The reason(s) for the exclusion
- 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.

2023 Legislative changes mean that if a pupil has a social worker, or if a pupil is looked-after, the headteacher must now, also without delay after their decision, notify the social worker

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
- Fixed term suspensions which would result in the pupil being excluded for more than 5 school days (or more than 10 lunchtimes) in a term
- Fixed term suspensions 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.

5.2 The governing board

Responsibilities regarding permanent exclusions is delegated to a suspensions/exclusions committee to be made up, when necessary, of at least 3 governors. This committee will only meet to discuss a permanent exclusion and when any consideration of reinstatement is required, or when an alternative placement is needed to be found for a longer suspension. A suspension of up to 5 days has not need of GB involvement.

The suspensions/exclusions committee has a duty to consider the reinstatement of an excluded pupil (see section 6).

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

Provision does not have to be arranged for pupils in the final year of compulsory education who do not have any further public examinations to sit.

5.3 The LA

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

For extended but defined periods the school can liaise with LA to engage a home tuition agency, following procedures, using accredited sources.

6. Considering the reinstatement of a pupil

The suspensions/exclusions committee will consider the reinstatement of an excluded pupil within 15 school days of receiving the notice of the exclusion if:

- The exclusion is permanent
- It is a 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 suspensions/exclusions committee consider the reinstatement of an excluded pupil within 10 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 suspensions/exclusions committee 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 suspensions/exclusions committee 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 suspensions/exclusions 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 suspensions/exclusions committee will notify, in writing, the headteacher, parents and the LA its decision, along with reasons for its decision, without delay. The written correspondence from the committee will include the following:

- The fact that the exclusion 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 SEND are considered to be relevant to the exclusion
- That, regardless of whether the excluded pupil has recognised SEND, parents have a right to require the LA to appoint an SEND expert to attend the review
- Details of the role of the SEND expert and that there would be no cost to parents for this appointment
- That parents must make clear if they wish for an SEND 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
- 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

7. 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 suspensions/exclusions 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 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.

8. School registers

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

- 15 school days have passed since the parents were notified of the 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.

9. Returning from a fixed-term suspension

Following a fixed-term suspension, a re-integration 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:

- Agreeing additional support for the family
- A phased return to class
- Interventions with SEMH team to support social re-integration
- Agreed expectations of behaviour and rewards and sanctions , next steps clearly explained
- Blended learning

10. Monitoring arrangements

The DHT for Behaviour and Personal Development monitors the number of exclusions every term and reports back to the Governors. They also liaise with the local authority to ensure suitable full-time education for excluded pupils.

This policy will be reviewed by DHT for Behaviour and Personal Development every two years. At every review, the policy will be shared with the governing board.

11. Links with other policies

This exclusions policy is linked to:

- Behaviour policy
- SEN policy and information report
- Statement of Behaviour Principles

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

Revised Oct 2023 Aidan Meech