



## Westlands First and Nursery School Exclusions Policy

Date ratified	March 2020
Date of Next review	March 2022

It is the policy of Westlands First and Nursery School to try to deal with **all** behavioural issues in an active, positive way, employing a wide range of strategies, including those specifically designed to avoid such issues reaching the point of exclusion. (See Behaviour Policy). The schools sees exclusion as a very last resort.

### **Purpose of this policy**

This policy is designed to briefly outline the school's approach to exclusions within the statutory framework as defined in the The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012. It outlines only where the school applies its own additional guidance and policies, which complement and reinforce the statutory guidance, for purposes of clarity in the day-to-day operation of the school.

This policy also aims to secure a pupil's right to an education despite having been excluded, by ensuring that appropriate arrangements are in place.

### **Principles**

1) Exclusion is a sanction used by the school only in cases deemed as serious breaches of the School Behaviour Policy. A student may be at risk of exclusion from school for:

- Verbal or physical assault of a student or adult;
- Persistent and repetitive disruption of lessons and other students' learning;
- Extreme misbehaviour which is deemed outside the remit of the normal range of sanctions.

2) A Fixed Term Exclusion from the school can only be authorised by the Headteacher or the Deputy Headteacher acting on their behalf. If neither are available to authorise the exclusion a decision should be deferred until the opportunity for authorisation is available. Pupils can be excluded on a fixed-period basis, i.e. up to 45 school days within a year, or permanently. Similarly, pupils can be permanently excluded following a fixed-period exclusion, where further evidence is presented.

3) In the case of a Permanent Exclusion this can **only** be authorised by the Headteacher and must only be done after consulting the Chair of Governors of the intention to impose this sanction, although the final decision rests with the Headteacher of the school.

4) The school seeks to reduce the number of incidents leading to exclusions by promoting a positive atmosphere of mutual respect and discipline within the school.

5) The school regularly monitors the number of Fixed Term Exclusions to ensure that no group of students is unfairly disadvantaged through their use and that any underlying needs of individuals are

being fully met. At all times, the headteacher will take into account their legal duties under the Equality Act 2010 and the 'Special educational needs and disability code of practice: 0 to 25 years', ensuring that they do not discriminate on any grounds, e.g. race, sex, disability, and will not increase the severity of a pupil's exclusion on these grounds.

6) Any decision made to exclude a pupil will be lawful, proportionate and fair, with respect to legislation relating directly to exclusions and the school's wider legal duties, including the ECHR.

7) All exclusions will be formally recorded on the pupil information system.

8) When sending a pupil home following any exclusion, the headteacher will ensure that they exercise their duty of care at all times and will always inform the parents.

9) The headteacher will apply the civil standard of proof when responding to the facts relating to an exclusion, i.e. that 'on the balance of probabilities' it is more likely than not that the facts are true.

10) The headteacher may withdraw any exclusion that has not already been reviewed by the governing board.

11) The headteacher will not issue any 'informal' or 'unofficial' exclusions, such as sending a pupil home to 'cool-off', regardless of whether the parents have agreed to this.

12) The headteacher will not use the threat of exclusion as a means of instructing parents to remove their child from the premises.

## Factors to consider when excluding a pupil

### When considering the exclusion of a pupil, the headteacher will:

- Allow the pupil the opportunity to present their case.
- Take into account any contributing factors that are identified after a case of poor behaviour has occurred, e.g. if the pupil's wellbeing has been compromised, or they have been subjected to bullying.
- Take into consideration whether the pupil has received multiple exclusions or is approaching the legal limit of 45 excluded days per school year, and whether exclusion is serving as an effective sanction.
- Consider early intervention to address underlying causes of disruptive behaviour, including liaising with external agencies, to assess pupils who demonstrate consistently poor behaviour.

### The headteacher will consider what extra support may be available for vulnerable pupil groups whose exclusion rates are higher, to reduce their risk of exclusion, including the following:

- LAC
- Pupils eligible for FSM
- Pupils with SEND
- Certain ethnic groups

The headteacher will consider avoiding permanently excluding LAC pupils, those with SEMH issues or pupils with an EHC plan.

Where any member of staff has concerns about vulnerable pupil groups and their behaviour, they will report this to the headteacher who will instigate a multi-agency assessment to determine whether the behavioural issues might be as a result of educational, mental health or other needs

and vulnerabilities. The full assessment procedures are outlined in the school's Social, Emotional and Mental Health (SEMH) Policy.

Where SEND or SEMH issues are identified, an individual behaviour plan will be created using the graduated response outlined in the school's Behavioural Policy. If the pupil continues to endanger the physical or emotional wellbeing of other pupils or staff, despite exhausting the graduated response process, then exclusion may be considered.

In accordance with the Equality Act 2010, under no circumstances will a pupil with identified SEND or SEMH issues be excluded before the graduated response process has been completed.

Where a pupil with SEND or SEMH issues is permanently excluded because of a SEND or SEMH-related need that could not be met at the school, detailed records will be kept highlighting that these pupils are closely tracked and show that the school has a close relationship with the pupil's next destination.

The headteacher will work in conjunction with the parents of any pupil with additional needs, to establish the most effective support mechanisms.

### **Notification of an Exclusion**

1) Parents will be notified as soon as possible of the decision to exclude a student and the reason for the exclusion. This will be done on the day of the exclusion being authorised by either direct phone contact or a face-to-face meeting. A written confirmation of the reason(s) for the exclusion will be sent to parents the same day. This confirmation will include the following information:

- The reason(s) for the exclusion
- The length of the fixed-period exclusion or, for a permanent exclusion, the fact that it is permanent
- Their right to raise any representations about the exclusion to the governing board, including how the pupil will be involved in this and how the representations will be made
- Their right to attend a meeting where there is a legal requirement for the governing board to consider the exclusion, and the fact that they are able to bring an accompanying individual
- The arrangements that have been made for the pupil to continue their education prior to the organisation of any alternative provision, or the pupil's return to school
- Relevant sources of free, impartial information

Where the pupil is of compulsory school age, the headteacher will inform the parents by the end of the afternoon session that:

- For the first five days of the exclusion (or until the start date of any alternative provision or the end of the exclusion where this is earlier), parents are legally required to ensure that their child is not present in a public place during school hours without justification, and that parents may receive a penalty fine if they fail to do so.

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their child is not present in a public place during school hours without justification, and that parents may receive a penalty fine if they fail to do so.

Where the headteacher has arranged alternative provision, they will also inform the parents of the following:

- The start and end date for any provision of full-time education
- The address at which the provision will take place
- Any information necessary for the pupil to identify the person they should report to on the starting date

Where the headteacher is unable to provide information on alternative provision by the end of the afternoon session, they will provide the information in a subsequent written notice without further delay, and within 48 hours of the pupil beginning the provision.

If the alternative provision is due to begin before the sixth day of the exclusion, the headteacher is able to give less than 48 hours of notice, with parental consent.

If the headteacher has decided to exclude the pupil for a further fixed period following their original exclusion, or to permanently exclude them, they will notify the parents without delay and issue a new exclusion notice to parents.

In the case of a Permanent Exclusion parents will be notified by the Headteacher in a face-to-face meeting.

A student who has been excluded will have the reason for his/her exclusion explained to them by a member of staff so that they understand the nature of their misbehaviour.

The school will also work to put in place a programme for the pupil on their return. This will include input from staff at the school, parents, and any other appropriate bodies e.g. School Home Support Practitioner, Attendance Service or the Local Authority. Should it be decided for whatever reason that the matter needs to be put in the hands of another agency i.e. the incident leads to the discovery that there is a child protection issue, the school will continue to monitor the situation and work closely with that agency. It is hoped that in most cases following an exclusion, the child will be able to return to school and that further input will promote in them a more positive attitude and a subsequent improvement in behaviour.

The Chair of Governors, LA Inclusion Officer and relevant school staff will be notified of all Fixed Term Exclusions the same day of the production of the exclusion letter, which they will receive a copy of; it will clearly outline the reasons for the exclusion.

### **Arranging education for excluded pupils**

For any fixed-period exclusions of more than five school days, the governing board will arrange suitable full-time education for the pupil, which will begin no later than the sixth day of exclusion.

Where a pupil receives consecutive fixed-period exclusions, these will be regarded as cumulative, and full-time education will still have to be provided from the sixth day of exclusion.

For permanent exclusions, full-time education will also be provided for the pupil from the sixth day of exclusion. The School will usually only permanently exclude a child as a **last resort**, after trying to improve the child's behaviour through other means. However, there are exceptional circumstances in which the Headteacher may decide to permanently exclude a pupil because of ongoing issues or even for a 'one-off' incident.

The governing board will not arrange full-time education for any pupil who is currently in their final year of compulsory education, and who does not have any further public examinations to sit.

The governing board is aware that it is beneficial to excluded pupils to begin their alternative education arrangements before the sixth day of exclusion. The governing board will always attempt to arrange alternative provision before the sixth day of exclusion.

Where it is not possible to arrange alternative provision during the first five days of exclusion, the school will ensure that they take reasonable steps to set and mark work for the excluded pupil.

If a pupil with SEND has been excluded, the governing board will ensure that:

- Any alternative provision is arranged in consultation with the pupil's parents, who can request preferences.
- When identifying alternative provision, any EHC plan is reviewed/the pupil's needs are reassessed, also in consultation with the pupil's parents.

### **Considering exclusions**

The governing board will consider any representations made by parents regarding exclusions.

Parents and, where requested, a friend or representative, the headteacher and a member of the LA will be invited to attend any consideration of exclusions and will be able to make representations.

Any meeting to consider reinstatement of a pupil will be arranged at a date and time convenient for all parties, and in compliance with any statutory time limits.

The governing board will consider the reinstatement of an excluded pupil, where:

- The exclusion is permanent.
- The exclusion is fixed-period, and would bring the pupil's total number of excluded school days to more than 15 in any given term.
- The exclusion would result in the pupil missing a public examination.

In the case of a fixed-period exclusion where the pupil's total number of excluded days is more than five but less than 15 school days within a term, if requested by the parents, the governing board will consider exclusions within 50 school days of receiving notification.

In the case of a fixed period exclusion, where the pupil's total number of excluded school days does not amount to more than five, in the absence of any such representations, the governing board is not required to meet and cannot direct the reinstatement of the pupil.

Where exclusion would result in a pupil missing a public examination, the governing board will consider the exclusion before the test to decide whether the pupil should be reinstated in time to take the examination

If it is not practicable for enough governors to consider the decision before the examination, the chair of governors will consider the exclusion alone and decide whether to reinstate the pupil.

Considering the above, the governing board will also consider whether it would be appropriate to allow the excluded pupil to enter the premises to take the examination.

When considering the reinstatement of an excluded pupil, the governing board will:

- Only discuss the exclusion with the parties present at the meeting.
- Ask for any written evidence prior to the meeting.

- Circulate any written evidence and information to all parties, at least five school days in advance of the meeting.
- Allow pupils and parents to be accompanied by a person of their choice at the meeting.
- Consider what reasonable adjustments need to be made to support the attendance and contribution of parties at the meeting.
- Identify the steps needed to enable and encourage the excluded pupil to attend the meeting and speak on their behalf, or how they may contribute personal views by other means if attendance is not possible.
- Consider the interests and circumstances of the excluded pupil, including the grounds for exclusion.

### **Reaching a decision**

After considering exclusions, the governing board will either:

- Decline to reinstate the pupil.
- Direct the reinstatement of the pupil immediately, or on a specified date.

If reinstatement would make no practical difference, e.g. if the pupil has already returned to school following a fixed-period exclusion or the parents make clear they do not want their child reinstated, the governing board will still consider whether the pupil should be officially reinstated, and whether the headteacher's decision to exclude the pupil was fair, lawful and proportionate, based on the evidence presented.

The governing board will apply the civil standard of proof when responding to the facts relating to an exclusion, it is more likely than not that the facts are true.

To reach a decision, the governing board will:

- Identify the steps they intend to take to ensure that all parties involved will have the opportunity to participate and present their views.
- Ensure that minutes are taken of the meeting as a record of the evidence that was considered.
- Ask all parties to withdraw from the meeting before concluding their decision.
- Consider whether the exclusion of the pupil was lawful, proportionate and fair, taking into account the headteacher's legal duties and any evidence that was presented to the governing board in relation to the decision to exclude.
- Record the outcome of the decision on the pupil's educational records, along with copies, which will be kept for at least six months.
- Make a note of their findings, where they have considered an exclusion but cannot reinstate the pupil.

### **Notification of considered exclusions**

The governing board will notify the parents of the excluded pupil, the headteacher and the LA of their decision following the consideration of an exclusion, in writing and without delay.

In the case of a permanent exclusion, where the governing board decides not to reinstate the pupil, they will notify the parents:

- That it is permanent, and their right for it to be reviewed by an independent review panel.
- Of the date by which an application for review must be made.
- Of the name and address of whom the review application should be submitted to.

- That any application should set out the grounds on which it is being made and that, where appropriate, this should include reference to how a pupil's SEND is considered relevant to the exclusion.
- That, regardless of whether a pupil has been identified as having SEND, the parents have a right to require the governing board to ensure a SEND expert attends the review.
- Of the role of the SEND expert that will attend the review, and that the parents will not be charged for this.
- That they are required to make it clear if they wish for a SEND expert to attend the review.
- That they may appoint someone at their own expense to make representations to the panel.

The governing board will also notify parents that, if they believe an exclusion has been issued as a result of discrimination, then they are required to make a claim under the Equality Act 2010 to the First-tier Tribunal (SEND), and that this should be within six months of when the discrimination allegedly took place.

After any conclusion, the governing board will notify the parents, and all other parties involved, of the decision that was made and the reasoning for this, in enough detail.

### **Students Returning from a Fixed Term Exclusion**

1) All students returning from a Fixed Term Exclusion are required to attend a reintegration meeting, accompanied by a parent. This meeting will seek to establish practical ways in which further exclusion can be avoided and behaviour modified to acceptable standards in partnership between student, parent and school.

### **Appeals**

All correspondence regarding an exclusion from the school will inform parents of their right to appeal to the Governing Body against the decision to exclude. This procedure is clearly set out in the statutory guidance. The person who should be contacted to initiate an appeal is the **Clerk to the Governors**.

Parents are required to submit their applications within:

- 15 school days of the governing board's notification of their decision.
- 15 school days of the final determination of a discriminatory claim made under the Equality Act 2010.

Any application made outside of this timeframe will not be reviewed.

Parents are able to request an independent panel review even if they did not make a case to, or attend, the governing board's initial consideration of the exclusion.

The LA will adhere to all statutory guidelines when conducting an independent panel review, as outlined in the DfE's statutory guidance document 'Exclusion from maintained schools, academies and pupil referral units in England' 2017.

The school is aware that if, following an instruction to reconsider, the governing board does not offer to reinstate the pupil, then a £4,000 adjustment will be made to the school's budget.

Where the independent review panel recommends that the governing board should reconsider their decision not to reinstate a pupil, they will do so within 10 school days of being given notice of the review panel's decision.

The school is aware that if, following a recommendation to reconsider, the governing board does not offer to reinstate the pupil, it will not be subject to a financial adjustment.

If, following reconsideration, the governing board offers to reinstate the pupil but the parents decline, no adjustment will be made to the school's budget.

Following reconsideration, the governing board will notify the parents, the headteacher and the LA of their reconsidered decision and the reasons for this.

### **Removing permanently excluded pupils from the school register**

The headteacher will remove pupils from the school register if:

- 15 school days have passed since the parents were notified of the governing board's decision not to reinstate the pupil and no application for an independent panel review has been received.
- The parents have stated in writing that they will not be applying for an independent panel review following a permanent exclusion.

If an application for an independent panel review has been made within 15 school days, the headteacher will wait until the review has been determined, or abandoned, and until the governing board has completed any reconsideration that the panel recommended or directed it to carry out, before removing the pupil from the school register.

If a pupil's name is to be removed from the register, the headteacher will make a return to the LA, which will include:

- All the particulars which were entered in the register.
- The address of any parent with whom the pupil normally resides.
- The grounds upon which the pupil's name is to be removed from the register.

Any return to the LA will be made as soon as the grounds for removal are met and no later than the date in which the pupil's name was removed.

If a pupil's name has been removed from the register and a discrimination claim is made, the pupil may be reinstated following a decision made by the First-tier Tribunal (SEND) or County Court.

Whilst a pupil's name remains on the admissions register, the appropriate code will be used to mark the pupil's attendance:

- Code B: Education off-site
- Code D: Dual registration
- Code E: Absent and not attending alternative provision

### **Relationship to other school policies**

The Exclusion Policy should be read in tandem with the school's Behaviour Policy as well as other relevant school policies, particularly the Safeguarding Policy, Special Educational Needs Policy and the Equality & Diversity Policy. It also has a close inter-relationship with the Anti-Bullying and Attendance Policies.

### **Legal framework**



This policy has due regard to the related statutory legislation including, but not limited to, the following:

- The Education Act 2002
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- The Education and Inspections Act 2006
- The Education Act 1996
- The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007
- The European Convention on Human Rights (ECHR)
- The Equality Act 2010

**This policy also has due regard to statutory and non-statutory guidance, including, but not limited to, the following:**

- DfE (2017) 'Exclusion from maintained schools, academies and pupil referral units in England'
- DfE (2016) 'Behaviour and discipline in schools'
- DfE (2015) 'Special educational needs and disability code of practice: 0 to 25 years'
- DfE (2018) 'Mental health and behaviour in schools'

### **Roles and responsibilities**

**The LA is responsible for:**

- Having due regard to the relevant statutory guidance when carrying out its duties in relation to the education of LAC.
- Arranging suitable full-time education for any pupil of compulsory school age excluded permanently, in coordination with the school.
- Reviewing and reassessing pupils' needs in consultation with their parents where they have an EHC plan and are excluded permanently, with a view to identifying a new placement.
- Arranging for an independent review panel hearing to review the decision of the governing board not to reinstate a permanently excluded pupil where required.
- Arranging the hearing without delay at a time, date and venue convenient for all parties.
- Ensuring the independent review panel consists of three or five members as appropriate, which represent the required categories.

**The governing board is responsible for:**

- Providing information to the Secretary of State and LA about any exclusions within the last 12 months.
- Arranging suitable full-time education for any pupil of compulsory school age excluded on a fixed-term basis.
- Considering parents' representations about exclusions within 15 school days of receiving notice if the appropriate requirements are met.
- Where an exclusion would result in a pupil missing a public examination or test, considering the exclusion before this date.
- Considering whether it would be appropriate for a pupil to be permitted onto the school premises to sit the public examination or test.
- Arranging the representation meeting at a time and date convenient to all parties, but in compliance with the statutory time limits.

- Adhering to its responsibilities to consider the reinstatement of pupils.
- Considering the interests and circumstances of the excluded pupil, including the circumstances in which they were excluded, and have due regard to the interests of others at the school.
- Using the civil standard of proof (based on the 'balance of probabilities', it is more than likely that the fact is true) when establishing the facts relating to an exclusion.
- Ensuring clear minutes are taken of the representation meeting.
- Noting the outcome of the representation meeting on the pupil's education record, along with copies of relevant papers for future reference.
- Notifying the pupil's parents, the headteacher and LA of its decision and the reasons for it, without delay.
- Where appropriate, informing parents of where to apply for an independent review panel.
- Informing parents of relevant sources of information.
- Ensuring a pupil's name is removed from the school admissions register, where appropriate.
- Reconvening within 10 school days to reconsider reinstatement of a pupil where directed to do so by the exclusions review panel.

**The headteacher is responsible for:**

- Implementing good levels of discipline to ensure all pupils can benefit from the opportunities provided by education and to minimise potential exclusions.
- Applying the civil standard of proof when establishing the facts in relation to an exclusion.
- Complying with their statutory duties in relation to pupils with SEND when administering the exclusion process, as outlined in the Special Educational Needs and Disability (SEND) Policy.
- Considering any contributing factors that are identified after an incident of poor behaviour has occurred, e.g. if a pupil has suffered bereavement, bullying or has a mental health issue.
- Considering the use of a multi-agency assessment for a pupil who demonstrates persistent disruptive behaviour.
- Reviewing the effectiveness of exclusions as a sanction, e.g. if a pupil has received multiple exclusions or is approaching the legal limit for exclusions in an academic year.
- Considering what extra support may be needed to identify and address the needs of individual pupils, particularly those with SEND, eligible for FSM, LAC and those from certain ethnic groups.
- Engaging effectively with parents in supporting the behaviour of pupils with additional needs.
- Determining whether a pupil will be excluded on disciplinary grounds.
- Withdrawing any exclusions that have not been reviewed by the governing board, where appropriate.
- Ensuring any decision to exclude is lawful, rational, reasonable, fair and proportionate.
- Complying with the requirements of the Equality Act 2010 when deciding whether to exclude a pupil.
- Ensuring they have considered their legal duty of care when sending a pupil home following an exclusion.
- Making the decision to exclude based on the evidence available at the time, regardless of any police investigation and/or criminal proceedings.
- Notifying a pupil's parents without delay where the decision is taken to exclude the pupil, including the days on which the parents must ensure the pupil is not present in a public

place at any time during school hours, as well as any other necessary information statutorily required.

- Ensuring that all information provided to parents is clear and easily understood.
- Notifying the governing board and LA of their decision to exclude a pupil where appropriate, as well as the pupil's home authority if required.
- Notifying the governing board once per term of any exclusions not already notified.
- Organising suitable work for excluded pupils where alternative provision cannot be arranged.

### **Monitoring and Review**

- 1) The impact of this policy will be reviewed by the governors' Curriculum & Personnel committee.
- 2) The Headteacher will provide the Committee with regular monitoring reports via the termly Headteacher's Report, which will help it to evaluate the effectiveness of the policy and procedures.
- 3) The policy and procedures will be reviewed and amended in the light of such evaluation and in consultation with representatives of all key stakeholders.
- 4) All members of staff are required to familiarise themselves with this policy as part of their induction programme.

To be reviewed at Curriculum & Standards Committee 2020

