



*Striving for Excellence*

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# Cirencester Kingshill School

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*Head: Christine S. Oates*

## **EXCLUSION POLICY**

### **Rationale**

This policy is an appendix to the school's Behaviour Policy and should also be read in conjunction with the school's Anti-Bullying, Drugs and Child Protection Policies. It follows the guidance given in the DCSF 2008 document 'Improving behaviour and attendance: guidance on exclusion from schools and pupil referral units' and any subsequent amendments. It is underpinned by the school's commitment to:

- 1) Ensure the safety and well-being of all members of the school community, and to maintain an appropriate educational environment in which all can learn and succeed;
- 2) Only use exclusion where absolutely necessary – see below.

### **The decision to exclude**

- The decision to exclude a student will be taken in the following circumstances:
  - (a) In response to a serious breach of the school's behaviour code of conduct;
  - (b) If allowing the student to remain in school would seriously harm the education or welfare of the student or others in the school.
- Individual fixed period exclusions will be for the shortest time necessary (usually 1-3 days), but also take into account any previous exclusions, particularly for similar offences. Regulations allow head teachers/teachers in charge to exclude a pupil for one or more fixed periods which, when aggregated, do not exceed a total of 45 school days in any one school year.
- Where a pupil has already received several short term exclusions (1-3 days), the school is likely to then give a 5 day exclusion for a further excludable offence, followed by a further 5 day exclusion (with possible additional time at the Pupil Referral Service) and subsequently a 15 day exclusion if serious problems persist. The next exclusion after this would be likely to be permanent.
- Only the head teacher, (or, in the absence of the head teacher, the acting head teacher) can exclude a pupil. Other exclusion-related activities do not have to be undertaken by the head teacher personally, but may be delegated.

### **Factors to consider when making a decision to exclude**

Before deciding whether to exclude a pupil, either permanently or for a fixed period, the head teacher/teacher in charge will:

- ensure that a thorough investigation has been carried out;
- allow and encourage the pupil to give their version of events;
- check whether the incident may have been provoked, for example by bullying, or by racial or sexual harassment;

- keep a written record of the actions taken (and copies of written records made by other members of staff), including any interview with the pupil concerned. Witness statements must be dated and should be signed, wherever possible.

### **Standard of proof**

The standard of proof to be applied is the balance of probabilities, i.e. if it is more probable than not that the pupil did what he or she is alleged to have done, the head teacher/teacher in charge may exclude the pupil. However, the more serious the allegation and thus the possible sanction, the more convincing the evidence substantiating the allegation needs to be. This is not the same as requiring the criminal standard of 'beyond reasonable doubt' to be applied. But it does mean that when investigating more serious allegations, in determining whether it is more probable than not that the pupil has behaved as alleged, head teachers/teachers in charge will need to gather and take account of a wider range of evidence. In some cases this may extend to evidence of the pupil's past behaviour, if relevant to the seriousness of the present allegation.

### **Procedures following a fixed period exclusion:**

- Whenever a pupil is excluded (permanently or for a fixed period), the parent will be notified on the same day, ideally by telephone followed up by a letter.
- During periods of exclusion exceeding one day, the school will set work for the pupil to complete and arrange for it to be marked;
- Where a pupil is given a fixed period exclusion of a duration of six school days or longer, the school will arrange suitable full-time educational provision with the Pupil Referral Service from and including the sixth school day of the exclusion;
- The school will arrange a reintegration interview with parents and the pupil during or following the expiry of any fixed period exclusion;
- For exclusions of six days or more, the interview must be held during the period beginning with the first school day to which the exclusion relates and ending with the fifteenth school day following the day on which the pupil returns to school.
- If a reintegration meeting has not been held by the end of the period of exclusion, the pupil will be expected to attend school and work in the Student Support Room until such a time as the meeting has taken place;
- During the initial period of up to five school days of any exclusion, whether fixed period or permanent, the parents of the excluded pupil must ensure that he or she is not present in a public place during normal school hours without reasonable justification. This requirement applies whether or not the pupil is in the company of the parent. A failure to comply with this requirement is an offence. Parents can be given a fixed penalty notice of £50 if they fail to do this.

### **Permanent exclusion**

- A decision to exclude a child **permanently** is a serious one and will only be taken where the basic facts have been clearly established on the balance of probabilities. It will usually be the final step in a process for dealing with disciplinary offences following a wide range of other strategies which have

been tried without success. It is an acknowledgement by the school that it has exhausted all available strategies for dealing with the child and will normally be used as a last resort.

- There will, however, be exceptional circumstances where it is appropriate to permanently exclude a child for a first or 'one off' offence. These might include:
  - a) serious actual or threatened violence against another pupil or a member of staff;
  - b) sexual abuse or assault;
  - c) supplying an illegal drug.

### **Procedures following permanent exclusion**

- In the case of a permanent exclusion the pupil remains on the roll of the school until any appeal is determined; until the time limit for the parents to lodge an appeal has expired without an appeal being brought; or the parent has informed the LA in writing that no appeal is to be brought;
- During the first five school days of a permanent exclusion the school will send work home for the pupil to complete;
- During these initial five school days of exclusion parents must ensure that their child is not present in a public place during school hours without reasonable justification;
- From the sixth school day of a permanent exclusion, the LA is statutorily responsible for ensuring that suitable full-time education is provided to pupils of compulsory school age.
- Appeals against a permanent exclusion must be lodged by 15 school days after the day on which notice in writing was given of the governing body's decision.

### **Responsibilities of the governing body**

- The governing body can delegate some or all of its functions in respect of exclusions to a committee consisting of at least three governors and such a committee may be called the Discipline Committee. Kingshill School has established a Discipline Committee and has appointed a Clerk to the Committee. The quorum for a Discipline Committee meeting is three members (see Governors handbook for members). If any governor has a connection with the pupil, or knowledge of the incident that led to the exclusion, which could affect his or her ability to act impartially, he or she should step down. The Chair has the casting vote in all cases where an even number of governors are considering the case.
- At one meeting the governing body may consider more than one exclusion so long as it complies with the statutory time limits relating to each one.
- If any exclusion would result in the pupil missing a public examination, the governing body should try to meet before the date of the examination. If, exceptionally, it is not practical for the governing body to meet before the time when the pupil is due to take the public examination, the Chair of Governors – using his or her powers to act in an emergency – may consider the exclusion and decide whether or not to reinstate the pupil (these are the only circumstances in which the Chair of Governors can alone review an exclusion).

### **Governing body's role in reviewing exclusions**

- There is no legal requirement for the head teacher to inform the governing body of short fixed period exclusions (i.e. those of up to and including 5 school days in total in any one term) as they occur, with

the exception of such an exclusion which would result in the pupil missing a public examination. The law requires the head teacher to report short fixed period exclusions once a term to the governing body and LA.

- However the governing body must, in the case of a fixed period exclusion of 5 school days or fewer in one term (and which does not bring the pupil's total number of days of exclusion to more than 5 in one term), consider any representations made by the parent. If representations from the parent are received the governing body must consider them, but they cannot direct reinstatement, although they can place a copy of their findings on the pupil's school record. In such cases the governing body has discretion to agree to a meeting if the parent requests a meeting to discuss the exclusion. No statutory time limits apply to the consideration of such exclusions, but the governing body should consider responding promptly to any request from the parent.
- An excluded pupil under the age of 18 should be allowed and encouraged to attend the hearing and to speak on his or her own behalf, if he or she wishes to do so, subject to their age and understanding.
- On receiving notice of an exclusion from the head teacher, the governing body:

a) must, in the case of a fixed period exclusion of more than 5, but not more than 15 school days in one term (which does not bring the pupil's total number of days of exclusion to more than 15 in one term), convene a meeting between the 6th and the 50th school day after receiving notice of the exclusion, to consider the exclusion, **but only if the parent requests such a meeting;**

b) must, in the case of a permanent exclusion, or a fixed period exclusion of more than 15 school days in one term (or which brings the pupil's total number of days of exclusion to more than 15 in one term) convene a meeting between the 6th and the 15th school day after the date of receipt of notice to consider the exclusion. If a pupil's total number of days of fixed period exclusion exceeds 15 school days in one term, any subsequent fixed period exclusion(s) of the pupil in the same term would again trigger the governing body's/management committee's duty to consider the circumstances of the exclusion;

c) must invite the parent and the head teacher and an LA officer to the meeting at a time and place convenient to all parties (but in compliance with the relevant statutory time limits);

d) should ask for any written statements (including witness statements) in advance of the meeting;

and

e) should circulate, at least five days in advance of the governing body meeting, any written statements (including witness statements) and a list of those who will be present at the meeting to all parties, including the pupil if it is known that they are to attend the meeting.

- The governing body must comply with the statutory time limits but are not relieved of their obligation to carry out the relevant duty if they fail to comply. Accordingly their decision will not be invalid simply on the grounds that it was made out of time.
- It should be noted that the governing body's role is to review exclusions imposed by the head teacher, who alone has the power to exclude. It follows that the governing body cannot increase the severity of an exclusion, for example by extending the period of a fixed period exclusion or by imposing a permanent exclusion in substitution for a fixed period exclusion. The governing body can uphold an exclusion; or direct the pupil's reinstatement, either immediately or by a particular date. If the governing body cannot direct reinstatement because the period of exclusion has expired and the pupil

has returned to school, they can place a copy of their findings on his or her school record. Governors should bear in mind that, in the case of a permanent exclusion, if an appeal is lodged the independent appeal panel will not just review the governors' decision, it will rehear all the facts of the case including any fresh evidence.

### **Procedure at the governing body meeting**

- Following introductions, the clerk should explain the order in which the parties entitled to be heard will state their case (as previously notified to them) and that there will be an opportunity for questioning by the other parties after each presentation. The chair should then lead the governing body in establishing the relevant facts. Governors may wish to ask questions to clarify an issue or to elicit more information. Questions from the governing body should generally be taken at the end of each party's statement and following questioning by the other parties.
- Sufficient time must be allowed for each party to put their case. The panel should ensure that the parent and pupil is given the opportunity to comment on relevant information obtained. Care must be taken to ensure that no party attending the hearing is present alone with the governing body in the absence of any other party.
- The LA is not required to send a representative to all governing body exclusion meetings in its area. The LA should send a representative to all permanent exclusion meetings and to longer fixed period exclusion meetings if possible. The LA's role at the governing body meeting is not to give its view on the merits of the particular exclusion. But it can make a statement to the governing body in general terms, for example about how other schools in the area (and the LA itself, if applicable) have dealt with similar incidents. The LA representative should also draw the attention of governors to issues where there is a lack of clarity or where more information may be needed or where guidance appears to have been ignored. The head teacher should attend the meeting to clarify points and answer any questions relating to the incident or events leading to the exclusion. No party to the review should be alone with the governors at any point before, during or after the meeting.
- Where the exclusion is for more than 5 school days in total in one term and where reinstatement is practical, the governing body should decide whether to direct reinstatement. In reaching its decision the governing body should consider:
  - a. any representations made by the parent, the pupil and the LA;
  - b. whether on a balance of probabilities the pupil did what he or she is alleged to have done; and
  - c. whether the head teacher has complied with the law on exclusion and has had regard to the government guidance on exclusion.
- In considering whether to direct reinstatement, the governing body should seek the LA's views as to what support could be made available to assist with reintegrating the pupil.

### **Governing body's decision**

- Where reinstatement is not practical, because, for example, the pupil has returned to school following the expiry of a fixed period exclusion, or because the parent makes clear he or she does not want their child reinstated, the governing body must consider whether the head teacher's decision to exclude the child was justified, based on the evidence. The outcome of its review should be added to the pupil's school record for future reference. There are only two decisions open to the governing body – to uphold the exclusion or to direct the pupil's reinstatement, either immediately or by a particular date.

It may not decide that because of exceptional circumstances or for other reasons it is not practical to give a direction for reinstatement, but that it would otherwise have been appropriate to give such a direction. Such a decision is reserved for the Independent Appeal Panel. If the governing body cannot direct reinstatement because the period of exclusion has expired and the pupil has returned to school, they should annotate his or her school record with their findings.

- The governing body must inform the parent, the head teacher and the LA of its decision in writing within one school day of the hearing, stating the reasons. The governing body may not attach conditions to any direction it may give to the head teacher to reinstate the pupil.
- Where the governing body decides to uphold a permanent exclusion, its letter to the parent should also include the following information:
  - a) the reason for the decision;
  - b) their right to appeal to an Independent Appeal Panel, together with the name and address of the person to whom any notice of appeal should be sent (normally the clerk to the appeal panel);
  - c) the date by which any notice of appeal should be lodged (15 school days after the day on which notice in writing was given of the governing body's decision. Where the notice is sent by first class post it is treated as having been given on the second working day after it was posted);
  - d) that any notice of appeal must set out the grounds on which the appeal is made; and
  - e) that any claim on grounds of disability discrimination should also be set out in the notice of appeal.

### **Independent appeals**

The LA's own procedures should be read here.

***THIS POLICY SHOULD BE READ IN CONJUNCTION WITH THE ACCESSIBILITY PLAN, ANTI-BULLYING POLICY, BEHAVIOUR POLICY, CHILD PROTECTION POLICY, CHILDREN LOOKED AFTER POLICY, EQUALITY OF OPPORTUNITY POLICY, E-SAFETY POLICY, SUBSTANCE MISUSE POLICY, WEAPONS AND KNIVES POLICY.***

Reviewed by C Patrick January 2012 (Date)

Adopted by Governors \_\_\_\_\_ (Date)

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