

NEWSTEAD WOOD SCHOOL

Avebury Road, Orpington, Kent BR6 9SA



Exclusion Policy

Review Body:	Local Governing Body
Leadership Group Responsibility:	Head teacher
Type of Policy:	Statutory
Review Period:	Annually
Reviewed:	September 2023
Next Review:	October 2024

1. Explanatory Note

This policy should be read in conjunction with the Behaviour Policy which contains our school ethos, Code of Conduct and school rules. To ensure good order and behaviour for learning it may be necessary to exclude students from the premises for a fixed term or permanently.

At Newstead Wood School we believe that whilst exclusions are rare, they can be an appropriate sanction. Most exclusions are the result of persistent breaches of the school's discipline policy. Exclusions should only be instigated when all other routes have been exhausted or when behaviour is in direct conflict with the School Behaviour Policy.

Permanent exclusion must only be used as a last resort when a range of other strategies have been tried and exhausted. A permanent exclusion for a serious breach (e.g. a one-off or first offence) should only happen in the most serious of circumstances.

Exclusion is the ultimate sanction. The decision to exclude is the Headteacher's alone, or in their absence, the designated teacher in charge.

2. Legislation and Guidance

In applying this policy, the school will adhere to current legislation, including the Equality Act 2010. This policy is in line with the statutory framework as outlined in the statutory guidance [‘Suspension and Permanent Exclusion from maintained schools, academies and student referral units in England, including student movement’, July 2022.](#) ("the DfE Exclusion Guidance"). The school is obliged to have regard to the DfE guidance on exclusions. Section 1 makes specific reference to the Equalities Act. These duties need to be complied with when deciding whether to exclude a student. Schools must also ensure that their policies and practices do not discriminate against students by **unfairly increasing their risk of exclusion**. Provisions within the Equality Act allow schools to take positive action to deal with particular disadvantages, needs, or low participation affecting one group, where this can be shown to be a proportionate way of dealing with such issues.

The school will, in partnership with others (including, where relevant, the local authority), consider what additional support or alternative placement may be required. This should involve assessing the suitability of provision for a student's SEN or disability. It is important to recognise that a formal diagnosis is not required to establish that a child has a disability if the school knew, or could reasonably have known, that the child had a disability. (see paragraphs 53-56, DfE Guidance for further information)

Where a student has a social worker and they are at risk of suspension or permanent exclusion, the social worker, Designated Safeguarding Lead (DSL) and the student's parents should be informed to involve them as early as possible in relevant conversations. Where a LAC is likely to be subject to a suspension or permanent exclusion, the Designated Teacher should work with the VSH to consider what additional assessment and support need to be put in place to help the school address the factors affecting the child's behaviour and reduce the need for suspension or permanent exclusion. Similar safeguards apply to previously LAC (see paragraphs 57-61, DfE Guidance for further information)

Therefore, if students from the above groups are suspended or permanently excluded, evidence that the above steps have been implemented will need to be shown in order to justify the exclusion.

The exclusion policy relates to behaviour not only in school but also to behaviour out of school: for example travelling to and from school; on school trips; work experience placement etc. This is consistent with the school behaviour policy

3. Types of Exclusion

There are two types of official exclusion:

i) Suspensions

This is an exclusion for a **fixed number of days**. The student must remain at home up to the first 5 days (during which time the school should take reasonable steps to set and mark work for the student). For a suspension of more than 5 days, full time education provision commences from the 6th day and must be organised by the excluding school. A student may not be excluded for more than 45 days in a school year. A student is entitled to return to school once the period of exclusion has ended.

A student may be excluded during **lunchtimes** for a **fixed number of days**. Each lunchtime exclusion is equivalent to half a day's suspension. Arrangements will be made to provide a lunch if the student is entitled to free school meals.

Repeated use of suspension for children with an EHCP or disability (and potentially those on SEN Support – especially those undergoing statutory assessment and likely to get an EHCP) could be considered ineffective or failing to sufficiently meet a child's needs. There is an expectation that where this is occurring, schools ensure the SENCO is involved as part of a behaviour intervention and planning process to elicit different approaches to improving the child's behaviour. This may involve advice from colleagues and specialists such as an educational psychologist, speech and language therapist etc.

Behaviour outside School

Subject to the requirements of this guidance, the Headteacher (or designated teacher in charge) may exclude or otherwise sanction students even if the circumstances giving rise to exclusion occur when the student is

out of school, provided that behaviour is relevant to the maintenance of good behaviour in the school. Schools' own policies should make clear how this operates in practice, in line with the DfE guidance.

Police Involvement and Parallel Criminal Proceedings

The process of exclusion from school and criminal proceedings can, and should, run parallel. The head teacher need not postpone taking a decision on an exclusion solely because a police investigation is underway and/or any criminal proceedings may be brought. In such circumstances, the head teacher will need to take a decision on the evidence available to them at the time. In all cases, schools should follow general safeguarding principles as found in Keeping Children Safe in Education. Where the evidence is limited by a police investigation or criminal proceedings, the head teacher should consider any additional steps they may need to take to ensure that the decision to exclude is fair. However, the final decision on whether to exclude is for the head teacher to make. It is also critical that a school does not undermine the evidence gathering in a parallel police investigation: the school should consult with police before carrying out its own investigation.

ii) Permanent Exclusion

This is where the Headteacher's decision is that the student should not be allowed to return to the school. The decision should only be taken if:

- (i) the student has committed a serious breach or persistent breaches of the school's behaviour policy;
and
- (ii) allowing her/him to remain in the academy seriously harms the learning or welfare of the student or others in the school;

In most cases, this will be after a wide range of alternative strategies having been tried without success. However, there will be exceptional circumstances where, in the Headteacher's judgement, it might be appropriate to permanently exclude a child for a single serious breach (one-off or first offence). Examples of misconduct that might be considered as a serious breach are set out in Appendix B.

This will normally be used as a last resort in response to serious or persistent breaches of the school's behaviour policy. It may, however, be an appropriate sanction for a single incident of extreme misconduct.

Examples of when a permanent exclusion may apply for a one-off offence is included in Appendix B. Any list of examples is not exhaustive.

Unofficial exclusions

Formal exclusion is the only legal method of preventing a student's attendance on disciplinary grounds. If a student is sent home for disciplinary reasons (including lunch times) for example, to "cool off" for the rest of the day and this is not recorded as a suspension: this is an informal or unofficial exclusion which is unlawful regardless of whether it is done with the agreement of the parent.

4. Procedures

The Decision to Exclude

In making decisions about exclusion the Head will take into account any special educational needs, protected characteristics or other student vulnerabilities that may be relevant to the case. The Head will consider the advice in the DfE 'Exclusion from maintained schools, Academies and student referral units in England', and any other published codes of practice.

Any investigation will be conducted in accordance with DfE guidance so as to be fair.

The school will always try to ensure that the exclusion does not interfere with the continuous education of a student beyond what is necessary to modify behaviour and to ensure the safety, welfare and wellbeing of the whole school community.

Before deciding to exclude a student the Head will:

- ensure that an appropriate **investigation** has been conducted in line with the Major Behavioural Incidents protocol;
- ensure that all the **relevant evidence** has been considered;

Each case must be judged on the facts and the context taking into account:

- The degree of severity of the offence;
- The likelihood of reoccurrence;
- The student's previous behavioural record;
- Contributory factors (e.g. recent bereavement, mental health issues, bullying, special educational needs and disabilities, harassment);
- Support provided;
- Take into account the school behaviour policy, special educational needs policy and equality law obligations.

The decision to exclude will be made after a review of the evidence available and will be on the balance of probabilities - i.e. is it more probable than not that the accused acted as alleged – and in response to a serious or persistent breaches of the school's behaviour policy and where allowing the student to remain in school would seriously harm the education or welfare of the student or others in the school.

If **the balance of probabilities has been established**, the student may be excluded.

Reasonable Adjustment

The School will make reasonable adjustments for managing behaviour which is related to a student's Special Educational Need or disability. Staff will seek advice from the Deputy Head (Pastoral) if they are unsure about how to manage a student's behaviour where this is related to a Special Educational Need or disability. Details of any reasonable adjustments to behaviour management will be recorded. See Appendix A for further information.

5. Notification

Informing parents about the exclusion

At all stages the Head is expected to seek parental co-operation. The Head or their representative should inform parents without delay by telephone, with a follow-up letter within one school day. The following information must be given in writing:

- in cases of fixed term exclusions, the **length of the exclusion**;
- in cases of permanent exclusion, that **it is a permanent exclusion**;
- the **reasons for the exclusion**;
- their **right to make representations** to the Governing Body;
- the **name of the person** to be contacted, if they wish to make representations.
- where there is a legal requirement for the governing body to consider the exclusion, that parents have a right to attend a meeting, be represented at this meeting (at their own expense) and to bring a friend.

The letter to parents should also state:

- that for the first five 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 reasonable justification, and that parents may be given a fixed penalty notice or prosecuted if they fail to do so.
- the latest date by which the Discipline Committee must meet to consider the case;
- the **parent's right of access to the student's school record**;
- the **date and time when the student should return to school** (with a fixed term exclusion) or
- The number of lunch-times for which the student is excluded (with lunch-time exclusions);
- with a permanent exclusion, its immediate effect and any relevant previous history;
- arrangements for the setting and marking of work (it is the **parent's responsibility to ensure that work sent home is completed and returned to school**);
- the name and telephone number of the LEA officer to be contacted for advice;
- the **telephone number of ACE** (the Advisory Centre for Education);
- a link to the Department for Education current guidance on exclusions: exclusions guidance
- a link to the **Coram Children's Legal Centre**: www.childrenslegalcentre.com 08088 020 008; and
- where the head considers relevant, **links to other local services**, such as Traveller Education Services or the local parent partnership (www.parentpartnership.org.uk).

Informing the Governing Body

The Head will inform the Local Governing Body as soon as practically possible of:

- permanent exclusions (including where a fixed period exclusion is made permanent);
- exclusions totalling **more than 5 school days or 10 lunch-times** per term;
- exclusions necessitating a student missing a public examination.

The Head will inform the Local Governing Body termly of:

- fixed term exclusions amounting to **5 or fewer school days or 10 or fewer lunch-times (or half days) in total per term**.

The LGB's role is to review exclusions, either on parental request or because required to do so by law and the following different requirements apply to different types of exclusion.

- In the case of a fixed-period exclusion which does not bring the student's total number of days of exclusion to more than five in a term, the governing board must consider any representations made by parents, but it cannot direct reinstatement and is not required to arrange a meeting with parents.
- If the student will be excluded for more than five but less than 15 school days in the term, and only if the parents make representations, the governing board must consider within 50 school days of receiving the notice of exclusion whether the excluded student should be reinstated.
- The LGB / Behaviour Committee must (whether the parent requests it or not) consider the reinstatement of an excluded student within 15 school days of receiving notification of the exclusion if:
 - The exclusion is permanent; or
 - It is a fixed-term exclusion which would bring the student's total number of school days of exclusion to more than 15 in a term; or
 - It would result in a student missing a public examination or national curriculum test.

The Behaviour Committee can only uphold or overturn the exclusion imposed by the Headteacher. It cannot extend a fixed term exclusion nor substitute it with a permanent exclusion.

The Behaviour Committee must inform the parent, Headteacher and the Local Authority of their decision, in writing without delay, preferably within one school day of the meeting, stating their reasons. Where the student resides in a different Local Authority to the one in which the school is based, they must also inform the student's 'home' authority.

A note of the Behaviour Committee's views on the exclusion should be placed on the student's school record with copies of relevant papers.

If the Behaviour Committee directs reinstatement, this should take place as soon as possible. No conditions can be attached to any direction to reinstate the student save that the Committee can direct reinstatement on a particular date.

Informing the Local Authority

The Head will inform the Local Authority as soon as practically possible of:

- permanent exclusions (including where a fixed period exclusion is made permanent);
- exclusions totalling more than 5 school days or 10 lunch-times per term;
- exclusions necessitating a student missing a public examination.

The Head will inform the Local Authority termly of:

- fixed term exclusions amounting to 5 or fewer school days or 10 or fewer lunch-times (or half days) in total per term

In addition, for a permanent exclusion, if the student lives outside the local authority in which the school is located, the head must also advise the student's "home authority" of the exclusion without delay.

If the school are aware that the student is receiving support from Children's Social Care, the Head teacher should inform Children's Social Care as soon as practically possible. This is in line with Newstead Wood School's safeguarding procedures and information sharing.

6. Additional Requirements for Permanent Exclusion

Where the Governing Body has upheld the decision of the Headteacher to exclude, set out:

- the statutory timeframe for applying to an independent review panel
- to whom an application must be sent, together with the grounds and evidence
- the right for parents to request a special educational needs expert
- the right for parents to bring an Equality Act claim for discrimination to the First Tier Tribunal (for disability discrimination) or to the County Court (for other forms of discrimination).

7. Independent Review Panel Procedure

The role of the panel is to review the Behaviour Committee's decision not to reinstate a permanently excluded student. The panel must take account of the circumstances of the excluded student and all others in the school. The panel must apply the civil standard of proof (the balance of probabilities).

Reaching a decision

Information on what the panel should consider when coming to their decision can be found in section 9 of the [DFE Guidance on Exclusions](#).

The decision

An independent review panel can decide to:

- uphold the Behaviour Committee's decision;
- recommend that the Behaviour Committee reconsiders reinstatement; or
- quash the decision and direct that the Behaviour Committee reconsiders reinstatement.

After the Independent Review Panel

The independent review panel is independent. Its decision is binding on the parent, the LGB and the Headteacher. The panel cannot revisit its decision once made.

The panel must let all parties know its decision without delay. The decision letter should give the panel's reasons for its decision in sufficient detail for the parties to understand why the decision was made.

If the panel upholds the permanent exclusion, the Clerk should immediately report this to the Local Authority. If the student lives outside the area of the Local Authority, the Clerk should make sure that the home Authority is also informed immediately of the position. If the student is of compulsory school age, it is for the Local Authority in whose area the student lives to make arrangements as quickly as possible for the student to continue in suitable full-time education.

Where the exclusion is upheld the Clerk should also advise the parent to contact the appropriate person at the home Local Authority about arrangements for their child's continuing education. The Headteacher should remove the student's name from the school roll the day after the conclusion of the independent review panel.

Reconvening a Behaviour Committee

If the independent review panel directs or recommends that the LGB reconsider the exclusion, the LGB must meet to reconsider within 10 school days of notification. The DfE Exclusion Guidance gives specific advice as to what the further meeting of the LGB should involve and the requirement that the LGB must have serious justification for continuing to support the exclusion. Where the LGB has reconsidered an exclusion decision it must inform the relevant person, the Headteacher and the Local Authority of its reconsidered decision and the reasons for it without delay.

Remedies after the Independent Review Panel

A parent can complain to the Secretary of State via the Education and Skills Funding Agency at the Department for Education.

Decisions of both governing bodies and independent review panels can be subject to judicial review.

8. Claims of Discrimination in relation to exclusion

Parents can also apply to the First-tier tribunal to hear cases of alleged disability discrimination, in addition to their current right to apply to a County Court to hear other cases of discrimination under the Equality Act 2010. The First-tier Tribunal will be able to direct reinstatement.

Appendix A

Individual Reasonable Adjustment to the Behaviour Policy

This guidance is based on the Equality Act (2010), Children and Families Act (2014) and the DfE Behaviour in schools Advice (2022).

Rationale Newstead Wood School is fully inclusive and recognises that additional needs, in some cases are classified as a disability. We want all students to have the best possible chance to reach their potential in our School. To ensure discrimination does not take place, specific policies and practice may need to be adjusted. Every student with an additional need/s is unique, therefore a personalised approach is required to understand whether adjustments are necessary and the impact of support. To determine if adjustments are required for the Behaviour Policy, the Graduated Approach from the DfE Code of Practice is implemented, this follows the 'Asses, Plan, Do, Review' cycle.

Example of the Graduated Approach to adjustments

Stage 1 – Meeting with parents/carers, the student, Head of Year and the SENDCo to assess the need for adjustments, the nature of any adjustments and strategies to support the behaviour of the student, both in and outside of lessons. Triggers and barriers to learning will be discussed, which may result in further Intervention being put in place. The Senior Leader for Culture and Behaviour may be in attendance.

Stage 2 – If adjustments and specific learning strategies are agreed, the SENDCo and Head of Year will create a specific Learning Plan for the student. This document communicates to all their teachers and support staff the key strategies that need to be implemented for the student to have every chance of success in the classroom, as well as any adjustments to the Behaviour Policy (examples are given in the table below). This plan will also be uploaded onto the student's electronic file, so all staff can identify the strategies and adjustments to the Behaviour Policy. If deemed necessary, the SENDCo and Head of Year may meet with all teachers to further outline the strategies and adjustments.

Stage 3 – If deemed necessary, further external specialist advice may be sought to assess a student's need/s and further appropriate strategies and adjustments may be recommended. Examples of specialist advice can include: an Educational Psychologist, Speech and Language Therapist, Autism outreach worker, Behaviour specialist. This may occur if the student is not already involved with these professionals.

Stage 4 - A regular review period will be set to evaluate the impact of support and the adjustments to the Behaviour Policy. This will range from 6- 12 weeks, dependent on the student. All stakeholders are invited to this meeting. If amendments are agreed, this will be updated in the Student's Learning Plan and shared with key staff.

Examples of specific supportive learning strategies	Examples of adjustments to the Behaviour Policy
Increased use of praise	Pre-warning given
Time out card	Shorter length for homework detention (45 minutes rather than 60 minutes)
Attendance to homework club	Access to keyworker support in the Reflection room, when required
Seating Plan adjustment	Time out card in the reflection room
Short and repeated instructions	Shorter time spent in the reflection room
Use of a visual checklist on student expectations	Higher frequency of failed homework's to be set a detention (2x rather than 1x)
Private notification of warnings, including post it notes on desks	Reflection room time does not roll over to the following day

Use of a fidget toy	Access to a laptop in the reflection room
Chunked tasks	Restorative discussion with the teacher to take place immediately, rather than the end of the day

Please note the above are examples; strategies and adjustments will be arranged on a personalised basis dependent on need.

If a student is in receipt of an Educational, Health Care Plan (EHCP), the learning strategies and adjustments will be written into the Plan at the next Annual Review meeting.

Appendix B Examples of Misconduct that May Lead to Permanent Exclusion

Permanent exclusions are extremely serious and should only be used in exceptional circumstances. Permanent exclusions should only be in response to persistent misconduct of a serious nature, where other sanctions have been attempted and not resulted in improved behaviour and conduct.

There are a few single incidents that may lead to a permanent exclusion. These include (but are not restricted to) the follow categories:

- a serious breach of safety requirements likely to endanger other people or yourself;
- use or possession of or supply of alcohol or illegal drugs within the academy premises or during academy organised activities;
- stealing from the academy, employees of the academy, or from students;
- intentional damage to property;
- very serious / extreme abuse of the academy's computer system and of the internet;
- sexual misconduct, abuse or assault;
- serious actual or threatened violence or physical assault against another student, member of staff or worker in the academy;
- carrying an offensive weapon (defined as any item made or adapted for causing injury);
- very significant / extreme bullying and/or harassment including racial, sexual or homophobic harassment;
- extreme defiance of the properly exercised authority of the academy and its staff;