

Millbrook Primary School



Exclusion Policy

Policy Creation & Review	
Author(s)	Jespy Pereira-Barker
Last review date	September 2023
Ratified by Governors	September 2023
Next Review Date	September 2024

Introduction

Millbrook Primary School carefully considers all policies with respect to the impact on equality and the possible implications for pupils and staff with protected characteristics. Exclusion from school is a most serious event and should be considered only as an ultimate sanction. Our preventative approach is reflected through the school's Positive Behaviour Policy and the use of Steps strategies.

Steps

- Staff at Millbrook Primary School place great emphasis on the social and emotional well-being of children and are committed to a therapeutic approach to learning, in line with the STEPS approach that has been adopted within Hertfordshire. All staff have been STEPS trained and the principles of STEPS are embedded within our school culture.
- We do, however, recognise that all children are unique individuals and that the same approach will not be effective for all children.
- Care is taken to support each child with positive strategies that are be-spoke and appropriate to their needs.
- Where necessary, strategies such as Roots and Fruits assessments, anxiety mapping, and Risk Reduction Plans are put into place to support our children.

Purpose of this Policy

1. To ensure that exclusion from school is a rare occurrence and, in the event of an exclusion, is the appropriate action in relation to a given set of circumstances.
2. To provide guidance on the appropriate procedures to be followed in the event of a potential exclusion.
3. Exclusion for a period of the day, for short, long term, or an indefinite period should only be considered when there is serious disruption to other pupils' work or threats to individual safety.
4. Exclusion should be considered in the light of long-term effect on the affected pupil.

Aims

The underlying principle behind this policy is that any exclusion should be lawful, reasonable and procedurally fair. We will ensure that:

- The exclusion process is applied fairly and consistently.
- The exclusion process is understood by governors, staff, parents and pupils.
- Pupils in school are safe and happy.

Legislation and Statutory Guidance

This policy is based on statutory guidance from the Department for Education: Exclusion from maintained schools, academies and pupil referral units (PRUs) in England. It is based on the following legislation, which outline schools' powers to exclude pupils:

- Section 52 of the Education Act 2002, as amended by the Education Act 2011
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- Sections 64-68 of the School Standards and Framework Act 1998 In addition, the policy is based on:
- Part 7, chapter 2 of the Education and Inspections Act 2006, which looks at parental responsibility for excluded pupils.
- Section 579 of the Education Act 1996, which defines 'school day'.
- The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007, as amended by The Education (Provision of Full-Time Education for Excluded Pupils) (England) (Amendment) Regulations 2014

The Decision to Exclude

Only the headteacher, or assistant headteacher, can exclude a pupil from school.

Our school is aware that off-rolling is unlawful. Ofsted defines off-rolling as: "...the practice of removing a pupil from the school roll without a formal, permanent exclusion or by encouraging a parent to remove their child from the school roll, when the removal is primarily in the interests of the school rather than in the best interests of the pupil."

We are committed to following all statutory exclusions procedures to ensure that every child receives an education in a safe and caring environment.

A decision to exclude a pupil will be taken only:

- In response to serious or persistent breaches of the school's behaviour policy, and
- If allowing the pupil to remain in school would seriously harm the education or welfare of others
- Before deciding whether to exclude a pupil, either permanently or for a fixed period, the headteacher will:
- Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked.
- Allow the pupil to give their version of events.
- Consider if the pupil has special educational needs (SEN)

Fixed term Exclusion

This can be for a whole or part of a school day. Lunchtime exclusions are counted as half a school day for statistical purposes and in determining whether an Exclusion Appeals Panel (EAP) meeting is triggered. During a fixed term exclusion period the school will work to ensure that any necessary adjustments are in place to enable the child to succeed in the future.

Roles and Responsibilities

The Headteacher

Informing parents

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

- The reason(s) for the exclusion
- The length of a fixed-term exclusion or, for a permanent exclusion, the fact that it is permanent.
- Information about parents' right to make representations about the exclusion to the governing board and how the pupil may be involved in this.
- Where there is a legal requirement for the governing board to meet to consider the reinstatement of a pupil, and that parents have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend.

The headteacher will also notify parents by the end of the afternoon session on the day their child is excluded that for the first 5 school days of an exclusion, or until the start date of any alternative provision where this is earlier, parents are legally required to ensure that their child is not present in a public place during school hours without a good reason. Parents may be given a fixed penalty notice or prosecuted if they fail to do this.

If alternative provision is being arranged, the following information will be included when notifying parents of an exclusion:

- The start date for any provision of full-time education that has been arranged.
- The start and finish times of any such provision, including the times for morning and afternoon sessions, where relevant
- The address at which the provision will take place.
- Any information required by the pupil to identify the person they should report to on the first day.
- Where this information on alternative provision is not reasonably ascertainable by the end of the afternoon session, it may be provided in a subsequent notice, but it will be provided no later than 48 hours before the provision is due to start. The only exception to this is where alternative provision is to be provided before the sixth day of an exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent. Informing the governing board and local authority.

The headteacher will immediately notify the governing board and the local authority (LA) of:

- A permanent exclusion, including when a fixed-period exclusion is made permanent.
- Exclusions which would result in the pupil being excluded for more than 5 school days (or more than 10 lunchtimes) in a term.
- Exclusions which would result in the pupil missing a public examination.

For a permanent exclusion, if the pupil lives outside the LA in which the school is located, the headteacher will also immediately inform the pupil's 'home authority' of the exclusion and the reason(s) for it without delay.

For all other exclusions, the headteacher will notify the governing board and LA once a term.

The Governing Board

Responsibilities regarding exclusions are delegated to an Exclusion Appeals Panel ('EAP'). The EAP 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 with information about any exclusions in the last 12 months.

For a fixed-period exclusion of more than 5 school days, the governing board will arrange suitable full-time education for the pupil.

This provision will begin no later than the sixth day of the exclusion.

The Local Authority

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

Considering the reinstatement of a pupil The EAP 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 EAP will consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion if the pupil would be excluded from school for more than 5 school days, but less than 15, in a single term.

The Exclusions Appeals Panel (EAP) can either:

- Decline to reinstate the pupil, or
- Direct the reinstatement of the pupil immediately.
- On a particular date in reaching a decision, the EAP 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 EAP will notify, in writing, the headteacher, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the EAP's decision will also include the following:

- The fact that it is permanent.
- Notice of parents' right to ask for the decision to be reviewed by an independent review panel, and:
- The date by which an application for an independent review must be made.
- The name and address to whom an application for a review should be submitted.
- That any application should set out the grounds on which it is being made and that, where appropriate, reference to how the pupil's SEN are considered to be relevant to the exclusion.
- That, regardless of whether the excluded pupil has recognised SEN, parents have a right to require an SEN expert to attend the review
- Details of the role of the SEN expert
- That parents must make clear if they wish for an SEN expert to be appointed in any application for a review.
- That parents may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents may also bring a friend to the review.
- That if parents believe that the exclusion has occurred as a result of discrimination, they may make a claim under the Equality Act 2010 to the first-tier tribunal (special educational needs and disability), in the case of disability discrimination, or the county court, in the case of other forms of discrimination.
- A claim of discrimination made under these routes should be lodged within 6 months of the date on which the discrimination is alleged to have taken place.

An Independent Review

This may take place if the parents apply for it. The local authority the school will arrange with the appropriate local authority for an Independent Review Panel ('IRP') 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 EAP 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:

A lay member

Headteacher

Governor

Where a 5-member panel is constituted, two members will come from the school governor's category and two members will come from the headteacher category.

The IRP will decide one of the following:

- Uphold the EAP's decision
- Recommend that the EAP reconsiders reinstatement
- Quash the EAP'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 EAP'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 school 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 offsite) 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.

Returning from a Fixed-term Exclusion

Following a fixed-term exclusion, a reintegration meeting will be held involving the pupil, parents, a member of senior staff and other staff, where appropriate.

When the returns from a fixed-term exclusion, the school and parent will agree a behaviour support plan. Further advice may be taken from outside agencies and/or further strategies to support the child may be put in place.

Racial Incidents / Incidents of Bullying

Racial incidents and incidents of Bullying are also recorded through SIMs and CPOMS. The appropriate Herts County forms are completed for all racial incidents or bullying incidents. The school is proud of its inclusive nature and will not tolerate any level of prejudice, discrimination or bullying. Millbrook Primary School has adopted the Herts County Anti Bullying and Harassment Policy.

Monitoring Arrangements

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

Links with other policies

This exclusions policy is linked to.

Behaviour policy and procedures

SEN Policy

Equalities policy

Inclusion Policy

SEN Information Report

Appendix 1

Independent Review Panel (IRP) training

The school must ensure that all members of an IRP 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:

- 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

Appendix 2

Actions to be carried out before exclusion considered Check Evidence (if available)

- The exclusion is not being implemented for a reason related to a disability (Equalities Act 2010)
- If the pupil has an EHCP, and there has been time, the school has sought updated advice from EPS / Behaviour Service or any other relevant service
- There has been fair and consistent implementation of the school's behaviour policy
- All reasonable adjustments have been implemented, reviewed for impact and evidenced – known triggers minimised
- The pupil is accessing an appropriate individualised programme / timetable depending on the pupil's strengths / challenges
- The schools existing resources have been used, e.g. Learning Mentor, inclusion area
- A support plan has been implemented and reviewed.
- This is a multiagency approach to understand the holistic perspective needed to facilitate change.
- It is solution-focused and sets realistic small step targets with the involvement of pupil and parent / carer
- There have been opportunities for alternative learning with some use of an Alternative Provider / use of a partner school for relief time
- There has been honest, timely and sustained communication with parents / carers
- A therapeutic approach has been implemented
- The pupil voice has been heard with access to a trusted adult
- The individual circumstances have been fully explored including any challenges faced at home or any underlying issues which need to be understood
- The Governors and LA have been advised