

Keswick



School

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EXCLUSION POLICY (KSMAT/STAT/096A)

Committee Responsible:	Board of Directors
Lead Officer:	Executive Principal
Date of Review:	September 2021
Date to be Reviewed:	September 2022
Signed:	
Date:	



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EXCLUSION POLICY

REVIEW SHEET

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EXCLUSION POLICY

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1.0 INTRODUCTION

- 1.1 Keswick School is an inclusive school which aims to promote equality in all aspects of school life. We take a positive approach to encouraging good behaviour but also recognise that good discipline in our school is essential to ensure all pupils can benefit from the educational opportunities we provide.
- 1.2 The Government supports Head teachers in using exclusion from school as a sanction where it is warranted. We recognise it is our responsibility as a school to communicate to pupils, staff, and parents our behaviour expectations and the responsibility of all individuals working with pupils to ensure that an exclusion will not be initiated without first exhausting other strategies or, in the case of a serious incident, a thorough investigation. We have a range of policies and procedures in place to promote good behaviour and appropriate conduct, we take steps to access local support services and we strive to foster good parental engagement.
- 1.3 Whilst exclusion may be an appropriate sanction, we will investigate whether any contributing factors may have led to the incident/s of poor behaviour e.g. bereavement, mental health issues or bullying.
- 1.4 When this policy talks about parents, we mean a child's birth parents or anyone who has parental responsibility (which includes the local authority where it has a care order in respect of the child) and any person (for example, a foster carer) with whom the child lives. Where practicable, all those with parental responsibility will be involved in the exclusions process.
- 1.5 As a school we discharge our legal obligation to parents by recognising that obligations are to the 'relevant person' – a parent or the pupil, who is aged 18 or over.
- 1.6 When this policy talks about a 'term', we mean the autumn, spring or summer terms and the 'academic year' means our academic year beginning with the first day of school after 31 July and ending with the first day of school after the following 31 July.
- 1.7 This policy sets out our normal arrangements and procedures that must follow a decision to exclude on disciplinary grounds and is in line with the 2017 statutory guidance ['Exclusion from maintained schools, academies and pupil referral units in England'](#). It should be read in conjunction with the school's Behaviour Policy (KSMAT/STAT/044) which sets out in more detail the disciplinary grounds that may lead to exclusion.
- 1.8 During the coronavirus (Covid-19) pandemic an Addendum to this Exclusion Policy has been created following DfE statutory guidance [Changes to the school exclusion process during the coronavirus \(COVID-19\) outbreak](#). It describes the temporary changes made to the school exclusion process due to coronavirus (Covid-19) and must be read in conjunction with this policy regarding exclusions between 1 June 2020 and 21 March 2021.
- 1.9 This policy should be read in conjunction with:
- Behaviour (KSMAT/STAT/044)
 - Complaints Procedure (KS/PER/021)
 - Equality (KS/PER/007)
 - Special Educational Needs and Disabilities (KSMAT/STAT/017)

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2.0 WHAT IS EXCLUSION?

- 2.1 Exclusion is an extremely serious disciplinary sanction. It means that a pupil is not allowed on the school premises for the duration of the exclusion. If a pupil excluded from school is found in a public place during normal school hours during the first five school days of exclusion, then a person with parental responsibility for them may be prosecuted or given a fixed penalty notice (a fine).
- 2.2 A pupil may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or permanently:
- Fixed-Term Exclusion - when a pupil must not come to school for one or more fixed periods of time.
 - Permanent Exclusion - when a child is permanently excluded from school and not allowed to return.

3.0 REASONS FOR EXCLUSION

- 3.1 The decision to exclude a pupil will be taken in the following circumstances:
- In response to a serious breach of the school's Behaviour Policy (including an accumulation of behaviour points).
 - If allowing the pupil to remain in school would seriously harm the education or welfare of other people or the pupil themselves in the school.
- 3.2 For example, a fixed-term or permanent exclusion could be used for any of the following, all of which constitute examples of unacceptable conduct (including outside of school), and are serious infringements of our Behaviour Policy:
- Verbal abuse to staff or other adults or to pupils
 - Physical abuse to/attack on staff or other adults or pupils
 - Indecent behaviour, sexual abuse, or sexual assault
 - Damage to property
 - Misuse of illegal or prescription drugs or other substances including the supply of an illegal or controlled substance
 - Theft
 - Serious actual or threatened violence against another pupil or a member of staff or of someone else who is part of the school community
 - Carrying an offensive weapon
 - Arson
 - Unacceptable behaviour which has previously been reported and for which school sanctions and other interventions have not been successful in modifying the behaviour.

4.0 DECIDING TO EXCLUDE

- 4.1 When we decide on any kind of exclusion we will:
- take account of our legal duty of care when sending a pupil home following exclusion;
 - establish the facts in relation to the exclusion decision according to the civil burden of proof i.e. on 'the balance of probabilities' (whether the breach more than likely did, than did not, happen) and not the criminal burden of proof, 'beyond reasonable doubt';
 - take care in the process not to discriminate against, harass or victimise pupils because of: sex; race; disability; religion or belief; sexual orientation; pregnancy/maternity; or gender reassignment and

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make reasonable adjustments to ensure everyone can participate in the process, including where a difficulty may be due to English not being a parent’s first language;

- communicate without delay in person or by telephone in the first instance to give the parents an opportunity to ask any initial questions or raise concerns;
- communicate decisions clearly and in writing with all due regard for necessary reasonable adjustments as above and by an appropriate method which might include email or notice given in person or sent home with the pupil or posted/hand delivered to the last known home address. If a notice is sent home with a pupil, we will consider the need to send a duplicate copy by an alternative method as well or take steps to confirm receipt of the notice;
- notify the local governing body and Local Authority of any permanent exclusion, any exclusion of more than 5 days and any exclusion that means a pupil will miss a statutory examination or assessment (including the reason/s for and duration of the exclusion);
- notify local governing body once per term of any other exclusions not already notified;
- within 14 days of any request, provide the Secretary of State for education with information about any exclusions within the last 12 months;
- in the case of a permanent exclusion where the pupil lives outside the local authority area in which our school is located, notify the pupil’s ‘home authority’ of the exclusion and reason(s) for it without delay so they can arrange to meet their legal duty to provide suitable full-time education.

5.0 THE EXCLUSION PROCESS

5.1 Fixed Term (Temporary) Exclusion

5.1.1 A fixed term exclusion is when a pupil is excluded from school for one or more fixed periods of time and must remain at home. It can be for up to a maximum of 45 school days in a single academic year and does not have to be continuous periods.

5.1.2 A fixed period can also be for just parts of a school day. For example, if a pupil’s behaviour at lunchtime is disruptive, they may be excluded from the school premises for the duration of the lunchtime period. Lunchtime exclusions are counted as half a school day for statistical purposes and in determining whether a local governing body meeting is triggered.

5.1.3 We aim to make an exclusion the shortest time necessary to ensure minimal disruption to the child’s education, whilst being mindful of the seriousness of the breach of policy.

5.1.4 A fixed-period exclusion cannot be extended or converted to a permanent exclusion. In exceptional cases, usually where further evidence has come to light, a further fixed-period exclusion may be issued to begin immediately after the first period ends; or a permanent exclusion may be issued to begin immediately after the end of the fixed period.

5.1.5 When we decide on a fixed term exclusion we will:

- inform parents explaining the reasons for the exclusion and how long it will last;
- provide work for the pupil for the first 5 days of the exclusion;
- make arrangements for alternative education for a pupil from the 6th day if the exclusion is for more than 5 days (or consecutive shorter fixed-period exclusions accumulate to more than 5 days) and we will include the following information (if we can find it within the timescales):
 - the start date for any provision of full-time education that has been arranged;
 - the start and finish times, including the times for morning and afternoon sessions if relevant;
 - the address at which the provision will take place; and
 - any information required by the pupil to identify the person they should report to on the first day.

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We will not take this step regarding a fixed period exclusion only when a pupil is in their final year if compulsory education and does not have any further public examinations to sit.

- explain that during the first 5 days of any exclusion, the pupil must not be in a public place during school hours and that parents are responsible for the whereabouts of the pupil because a parent who fails to comply with this duty without reasonable justification will be committing an offence and may be given a fixed penalty notice or be prosecuted;
- arrange a re-integration meeting on the pupil's return to school where all those concerned can discuss the best way forward for the pupil;
- ensure parents know about their right to make representations about the exclusion to the local governing body, how representations should be made and, where there is the legal right to meet with the local governing body to have them consider the exclusion, to be represented at that meeting (at their own expense) and to bring a friend.
- provide information about relevant sources of free and impartial information including:
 - a link to this statutory guidance on exclusions www.gov.uk/government/publications/school-exclusion;
 - a link to sources of impartial advice for parents such as the Coram Children's Legal Centre (www.childrenslegalcentre.com), or ACE Education (www.aceed.org.uk) and their advice line service on 03000 115 142 on Monday to Wednesday from 10 am to 1 pm during term time); and
 - where relevant, links to local services, such as Traveller Education Services, the Information Advice & Support Services Network (formerly known as the local parent partnership) (<https://councilfordisabledchildren.org.uk/information-advice-and-support-servicesnetwork/about> the National Autistic Society (NAS) School Exclusion Service (England) (0808 800 4002 or schoolexclusions@nas.org.uk), or Independent Parental Special Education Advice (www.ipsea.org.uk).

5.1.7 We will provide notice about alternative education 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 6th day of an exclusion, in which case the information can be provided with less than 48 hours notice with parents' consent.

5.2 Permanent Exclusion

5.2.1 A permanent exclusion is when a child is permanently excluded from school and not allowed to return. This is a very serious decision and the Head teacher will consult with senior leaders and the chair of the local governing body as soon as possible in such a case.

5.2.2 We will follow the same procedure to decide on and initiate a permanent exclusion as for a fixed term exclusion. However, where a child is not returning to our school, we will not arrange alternative education but will contact the local authority responsible for their continuing education (from the 6th day after exclusion) so that a long-term re-integration plan for a new placement can be put in place. We will also draw attention to a pupil's statement of SEND if they have one because the Local Authority must ensure that an appropriate full time placement is identified in consultation with the parents, who retain their rights to express a preference for a school that they wish their child to attend, or make representations for a placement in any other school.

5.2.3 The local governing body will meet to decide whether to reinstate a pupil and if the Head teacher's decision to exclude was justified based on the evidence.

5.2.4 Parents and the pupil will have an opportunity to present their point of view, regarding the exclusion and governors will either uphold the exclusion or reinstate the pupil.

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5.2.5 If the permanent exclusion is upheld by the local governing body, parents have the right to appeal to an Independent Review Panel. This panel must be arranged within 15 days of the permanent exclusion (or for exclusions over 15 days) and will be at a time and date convenient to all parties. Parents can ask the academy to ask a Local Authority representative to attend but governors will decide whether they can make comment or just observe.

5.2.6 Where possible, written evidence including other relevant information should be circulated to all parties of an Independent Review Panel at least 5 days in advance of the meeting.

6.0 EXCLUSION OF A CHILD WHO HAS SPECIAL EDUCATIONAL NEEDS

6.1 There are certain factors that every school needs to take into consideration for children who display disruptive behaviour that is as a result of their Special Educational Need or Disabilities (SEND) so we will take steps to:

- engage proactively with parents in supporting the behaviour of pupils with additional needs;
- provide early intervention to address underlying causes of disruptive behaviour including an assessment of whether appropriate provision is in place to support any SEN or disability that a pupil may have;
- consider the use of a multi-agency assessment for pupils who demonstrate persistent disruptive behaviour;
- take account of our statutory duties in relation to SEND when administering the exclusion process including having regard to the SEND Code of Practice;
- where we have concerns about the behaviour, or risk of exclusion, of a child with additional needs, a pupil with an EHCP or looked after child, in partnership with others (including the Local Authority) we will consider what additional support or alternative placement may be required.

6.2 Ultimately, the decision to exclude a pupil must be lawful, reasonable, and fair, in particular considering our statutory duty under the Equality Act 2010 not to discriminate against pupils on the basis of protected characteristics, such as disability.

7.0 THE ROLE OF GOVERNORS

7.1 The local governing body has a duty to consider parents' representations about an exclusion and must consider the reinstatement of an excluded pupil within 15 school days of receiving 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; or
- It would result in a pupil missing a public examination or national curriculum test.

7.2 If a pupil would be excluded from school for more than 5 school days, but not more than 15, in a single term, and requested to do so by the parents, the local governing body must consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion.

7.3 In the case of a fixed period exclusion that does not bring the pupil's total number of days of exclusion to more than five in a term, the local governing body must consider any representations made by parents but it cannot direct reinstatement. This is because it does not have the power to overturn the Head teacher's decision and is not required to arrange a meeting with parents. In this case, governors will

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consider whether it would be appropriate to place a note of their findings on the pupil's educational record.

- 7.4 Excluded pupils will be offered the opportunity to participate at all stages of the exclusion process, considering their age and understanding.
- 7.5 Following their consideration, governors may (where applicable):
- uphold an exclusion; or
 - direct reinstatement of the pupil immediately or on a particular date.
- 7.6 Where reinstatement is not practical because for example, the pupil has already returned to school, following the expiry of a fixed term exclusion, or the parents make clear they do not want their child reinstated, the local governing body must, in any event, consider whether the Head teacher's decision to exclude the child was justified based on the evidence.
- 7.7 In reaching a decision on whether to reinstate a pupil or not, governors will consider whether the decision to exclude the pupil was lawful, reasonable, and procedurally fair, taking account of the Head teacher's legal duties.

8.0 WHAT IS AN INDEPENDENT REVIEW PANEL

- 8.1 If applied for by parents within the legal time frame, the Academy Trust will, at their own expense, arrange for an Independent Review Panel hearing to review the decision of a local governing body not to reinstate a permanently excluded pupil.
- 8.2 The legal time frame for an application is:
- within 15 school days of notice being given to the parents by the local governing body of their decision to uphold a permanent exclusion; or
 - where an application has not been made within this time frame, within 15 school days of the final determination of a claim of discrimination under the Equality Act 2010 in relation to the exclusion.
- 8.3 If requested by parents in their application for an independent review panel, the academy trust must appoint a SEND expert to attend the panel and cover the associated costs of this appointment. The SEND expert's role is like that of an expert witness, providing impartial advice to the panel on how special educational needs might be relevant to the exclusion, for example, whether the school acted reasonably in relation to its legal duties when excluding the pupil.
- 8.4 Parents have a right to request the attendance of a SEND expert at a review, regardless of whether the school recognises that their child has SEND.
- 8.5 The role of the panel is to review the local governing body's decision not to reinstate a permanently excluded pupil.
- 8.6 In reviewing the decision, the panel must consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and people working at the school. The panel must also apply the civil standard of proof rather than the criminal standard.

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8.7 Following its review, the panel can decide to:

- uphold the exclusion decision;
- recommend that the local governing body reconsiders their decision; or
- quash the decision and direct that the local governing body considers the exclusion again.

8.8 An independent review panel does not have the power to direct a local governing body to re-instate an excluded pupil. However, where a panel decides that a local governing body's decision is flawed when considered in the light of the principles applicable on an application for judicial review, it can direct a local governing body to reconsider its decision.

9.0 MARKING ATTENDANCE REGISTERS FOLLOWING EXCLUSION

9.1 When a pupil is excluded, they will be marked as absent using Code E. Where alternative provision is made, and pupils attend it, they will be marked using either code B (education off site) or code D (dual registration).

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