

Exclusion Protocol and the Child We Care For

When a child or young person is taken into care every effort should be made to support them to achieve their true potential in education. The responsibility for achieving this does not lie with one individual but is shared by all adults who are involved with the young person.

- Everything possible should be done by all partners to ensure that Children We Care For are **never** permanently excluded and that fixed term suspensions are avoided. If it is felt that there is any risk of suspension, please contact the Virtual School as early as possible to explore how this can be avoided.
- Every effort should be made to enable the young person to continue to attend school and to minimise disruption to their learning and care placement.
- All parties should work together and with the young person through the **Personal Education Planning (PEP)** process to develop and implement flexible and creative approaches to address any difficulties and avoid suspensions.

Exclusion of a child in care is not an equal punishment as that of a child living with their family; the consequence can often be loss of their home, not just their education.

“Belonging is the antidote to trauma”- Lisa Cherry, 2023

- Nationally, suspension rates for children in the care of the local authority are more than 5 times those for all pupils. In Oxfordshire children we care for are **8 times** more likely to be suspended.
- Problems with education, particularly those resulting in suspension are one the main causes of placement breakdown.
- Suspension has been one of the key factors in persistent absence of Children We Care For, which is higher than the England average.
- A series of suspensions frequently precede a child being taken into care.

Schools must not have an unofficial arrangement where a child is not allowed on the school site. Informal or “unofficial” suspensions, such as sending students home “to cool off” are unlawful, regardless of whether they occur with the agreement of parents or carers. Any suspension of a student, even for short periods of time, must be formally recorded.

Definition of ‘parents’ in DFE Guidance

The definition of a parent can be found in the Education Act 1996, and this applies to all the legislation to which this guidance relates. **In addition to the child's birth parents, references to parents in this guidance include any person 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) who has care of the child. To reflect this, this guidance uses 'parent' to refer to both parents and carers. Where practical, all those with parental responsibility should be involved in the suspensions and permanent exclusions process.

Protocol to Reduce Suspensions

Alternatives to Suspension

- **Early intervention and communication** – Virtual School, parents/carers and social worker. Convene a multi-agency education meeting. These meetings must lead to clear actions which will reduce disengagement and disruptive behaviour.
- Consider any changes in personal circumstances outside of school including key dates/events for the child.
- **Assess risk.** To what extent can potential harm to other students' safety, wellbeing and learning be reduced? Complete risk assessment and Inclusion Support Plan – **contact Virtual School for guidance.** Behaviour is a form of communication, establish what the young person is trying to communicate. What are the causes/triggers and how can these be avoided or reduced.
- **Internal suspension** - should be for the shortest possible time and subject to regular review. Work must be provided to ensure students are able to access appropriate learning.
- **Preventative arrangements** may also be developed or in place as part of partnership work between schools and appropriate specialist settings.
- **Review** school/setting policies. A **Relational Behaviour Policy and practice** replaces behaviourist approaches and behaviour policies by providing guidance as well as clear structures and processes which support the development and maintenance of a calm and inclusive learning community. Are **policies** and environments as trauma informed as possible? Do they offer flexibility and discretion on an individual basis?
- **Within schools' governors, professionals and designated teachers** should be monitoring patterns, triggers and the frequency of suspensions to prevent escalation.

Strategies to support a reduction in suspensions may include:

- Regular robust meetings with team around the child
- Putting relationships at the heart of the provision and their sense of belonging
- Celebrating the child's strengths and interests to increase self-esteem
- Mentoring to support the young person on a regular basis to re-engage in their learning
- Further training and support/supervision for staff e.g. PACE, restorative practice, attachment and trauma informed relational practice
- Monitoring academic progress and attainment

- Consider the appropriateness of the curriculum and make reasonable adjustments: SEND, EAL, cultural and other needs to ensure access to learning
- Identifying barriers to learning and engagement including standardised and diagnostic assessments: Special Educational Needs and Disability Code of Practice: 0 to 25 years January 2015
[SEND code of practice: 0 to 25 years - GOV.UK \(www.gov.uk\)](http://www.gov.uk)
- A personalised timetable that is child centred and built around the next steps in learning
- Consider your universal provision and what is available through targeted provision
- Therapeutic support: Emotional Literacy Support Assistant, nurture group, school counsellor, play/drama/art therapies delivered by registered professionals
- Behaviour incident reports closely monitored to identify trends and patterns
- Risk Assessments regularly reviewed
- Identification of funding streams, family and therapeutic solutions
- Communication with alternative providers to discuss further support
- Engage external support e.g. ATTACH, CAMHS or specialist training providers
- As a last resort, consideration of a managed move with supported transition in agreement with the Virtual School Headteacher
- The Designated Teacher should refer frequently to the DT Handbook for more detailed guidance, and be involved throughout any discussions and decisions

Exclusion Regulations

DFE Guidance 2022 with relevant extracts and reference numbers

[Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

The Headteacher's powers to use exclusion

1. Only the headteacher of a school can suspend or permanently exclude a pupil on disciplinary grounds. A pupil may be suspended for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or permanently excluded.
2. A pupil's behaviour outside school can be considered grounds for a suspension or permanent exclusion. Any decision of a headteacher, including suspension or permanent exclusion, must be made in line with the principles of administrative law, i.e., that it is: lawful (with respect to the legislation relating directly to suspensions and permanent exclusions and a school's wider legal duties); reasonable; fair; and proportionate.
3. When establishing the facts in relation to a suspension or permanent exclusion decision the headteacher must apply the civil standard of proof, i.e., 'on the balance of probabilities' it is more likely than not that a fact is true, rather than the criminal standard of 'beyond reasonable doubt.' This means that the headteacher should accept that something happened if it is more likely that it happened than that it did not happen. The headteacher

must take account of their legal duty of care when sending a pupil home following an exclusion.

4. Headteachers should also take the pupil's views into account, considering these in light of their age and understanding, before deciding to exclude, unless it would not be appropriate to do so. They should inform the pupil about how their views have been factored into any decision made.

Where relevant, the pupil should be given support to express their view, including through advocates such as parents or, if the pupil has one, a social worker. Whilst an exclusion may still be an appropriate sanction, the headteacher should also take account of any contributing factors identified after an incident of misbehaviour has occurred and consider paragraph 45 of the Behaviour in Schools guidance.

Statutory guidance to headteachers on the exclusion of pupils with Education, Health and Care Plans (EHC plans) and looked after children

As well as having disproportionately high rates of exclusion, there are certain groups of pupils with additional needs who are particularly vulnerable to the impacts of exclusion. This includes pupils with Education, Health and Care Plans (EHC plans) and Children We Care For (in care to the LA). Headteachers should, avoid permanently excluding any pupil with an EHC plan or a Child We Care For.

Suspension

5. A suspension, where a pupil is temporarily removed from the school, is an essential behaviour management tool that should be set out within a school's behaviour policy.

6. A pupil may be suspended for one or more fixed periods¹⁴ (up to a maximum of 45 school days in a single academic year). A suspension does not have to be for a continuous period.

7. A suspension may be used to provide a clear signal of what is unacceptable behaviour as part of the school's behaviour policy and show a pupil that their current behaviour is putting them at risk of permanent exclusion. Where suspensions are becoming a regular occurrence for a pupil, headteachers and schools should consider whether suspension alone is an effective sanction for the pupil and whether additional strategies need to be put in place to address behaviour.

8. It is important that during a suspension, pupils still receive their education.

Headteachers should take steps to ensure that work is set and marked for pupils during the **first five school days** of a suspension. This can include utilising any online pathways such as Google Classroom or Oak National Academy. The school's legal duties to pupils with disabilities or special educational needs remain in force, for example, to make reasonable adjustments in how they support disabled pupils during this period. Any time a pupil is sent home due to disciplinary reasons and asked to log on or utilise online pathways should always be recorded as a suspension.

9. A suspension can also be for parts of the school day. For example, if a pupil's behaviour at lunchtime is disruptive, they may be suspended from the school premises for the duration of the lunchtime period. The legal requirements relating to the suspension, such as the headteacher's duty to notify parents, apply in all cases. Lunchtime suspensions are

counted as half a school day in determining whether a governing board meeting is triggered.

10. The law does not allow for extending a suspension or ‘converting’ a suspension into a permanent exclusion. In exceptional cases, usually where further evidence has come to light, a further suspension 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 suspension.

Reintegration after a suspension or off-site direction

26. Schools should support pupils to reintegrate successfully into school life and full-time education following a suspension or period of off-site direction. They should design a reintegration strategy that offers the pupil a fresh start; helps them understand the impact of their behaviour on themselves and others; teaches them to how meet the high expectations of behaviour in line with the school culture; fosters a renewed sense of belonging within the school community; and builds engagement with learning.

27. The reintegration strategy should be clearly communicated at a reintegration meeting before or at the beginning of the pupil’s return to school. During a reintegration meeting, the school should communicate to the pupil that they are valued, and their previous behaviour should not be seen as an obstacle to future success. Where possible this meeting should include the pupil’s parents. However, it is important to note that a pupil should not be prevented from returning to a mainstream classroom if parents are unable or unwilling to attend a reintegration meeting. To ensure ongoing progress, the strategy should be regularly reviewed and adapted where necessary throughout the reintegration process in collaboration with the pupil, parents, and other relevant parties.

28. Where necessary, schools should work with relevant staff and multi-agency organisations, such as teachers, pastoral staff, mentors, social workers, educational psychologists or the safer schools team, to identify if the pupil has any SEND and/or health needs.

29. A part-time timetable should not be used to manage a pupil’s behaviour and must only be in place for the shortest time necessary. Any pastoral support programme or other agreement should have a time limit by which point the pupil is expected to attend full-time, either at school or alternative provision. There should also be formal arrangements in place for regularly reviewing it with the pupil and their parents. In agreeing to a part-time timetable, a school has agreed to a pupil being absent from school for part of the week or day and therefore must treat absence as authorised.

30. Schools can consider a range of measures to enable the pupil’s successful reintegration which can include, but are not limited to:

- Maintaining regular contact during the suspension or off-site direction and welcoming the pupil back to school
- Daily contact with a designated pastoral professional in-school
- Use of a report card with personalised targets leading to personalised rewards
- Ensuring the pupil follows an equivalent curriculum during their suspension or off-site direction or receives academic support upon return to catch up on any lost progress
- Planned pastoral interventions

- Mentoring by a trusted adult or a local mentoring charity
- Regular reviews with the pupil and parents to praise progress being made and raise and address any concerns at an early stage
- Informing the pupil, parents and staff of potential external support

Permanent exclusion

11. A permanent exclusion is when a pupil is no longer allowed to attend a school (unless the pupil is reinstated). The decision to exclude a pupil permanently should only be taken:

- in response to a serious breach or persistent breaches of the school's behaviour policy; and
- where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others such as staff or pupils in the school.

12. For any permanent exclusion, headteachers should take reasonable steps to ensure that work is set and marked for pupils during the first five school days where the pupil will not be attending alternative provision. Any appropriate referrals to support services or notifying key workers (such as a pupil's social worker) should also be considered.

Headteachers may cancel an exclusion that has not been reviewed by the governing board. This practice is sometimes known as withdrawing/rescinding a suspension or permanent exclusion. If this occurs, parents, the governing board and the local authority should be notified, and if relevant, the social worker and VSH. Further information of other actions that should take place after an exclusion is cancelled is set out in paragraph 13.

For further information and guidance go to:

Oxfordshire Exclusion and Reintegration Team

[Exclusion and Reintegration Team | Schools \(oxfordshire.gov.uk\)](#)

Or the equivalent exclusion and reintegration team in your Local Authority.

The **Education Inclusion Service (Exclusion and Reintegration Team)** is also informed of the permanent exclusion. The Governing Body must meet between the sixth and the fifteenth day following the exclusion and invite the parent/carer, the young person's social worker, the Headteacher and a local authority officer. At least five days before the meeting any written statements should be circulated to attendees. All decisions about exclusion need to be made in reference to **DfE Guidance on Exclusions 2022**.

Head teachers and Governing Bodies must, by law, have regard to this guidance when making decisions on exclusions and administering the exclusion procedure. Excluded pupils should be enabled and encouraged to participate at all stages of the exclusion process, taking into account their age and understanding.

Updated June 2023