

	<b>Name of School</b>	<b>Corbets Tey School</b>
	<b>Policy Adopted Date</b>	<b>06/02/2019</b>
	<b>Next Review Date</b>	<b>06/02/2020</b>
	<b>Reviewed by</b>	<b>Governors Name: Philip Brimson</b> <b>Governors Signature:</b> 

## Exclusion Policy

Corbets Tey School has a behaviour policy that sets out the management of pupil behaviour in the school. The policy outlines the means by which staff will model positive behaviour and communication thereby promoting good behaviour and discouraging inappropriate behaviour.

The 5P approach used by the school to manage behaviour places an emphasis on prevention and problem-solving. It sets out the actions to be taken when challenging behaviour occurs. Please see the 'Behaviour Management Policy' for more information on 'The 5P approach'.

The school conforms to the Department for Education statutory guidance (2017) on exclusions, and we will only take this action for serious breaches of school policy and where all other interventions outlined in the school behaviour policy have been carried out.

The Department of Education regulations allow the Headteacher to exclude a pupil from the school site for one or more fixed periods not exceeding 45 school days in any one school year.

The Governing Body have established arrangements to review promptly all exclusions from the School.

Following external exclusion parents are contacted immediately where possible. A meeting will be called or a letter sent by post giving details of the exclusion and the date the exclusion ends. Parents have a right to make representations to the Headteacher and Governing Body Appeals Committee.

### Equality Impact Assessment

The school aims to design and implement services, policies and procedures that meet the diverse needs of our provision, population and workforce, ensuring that none are placed at an unreasonable or unfair disadvantage over others. We are confident that this policy does not place anyone at an unreasonable or unfair disadvantage, and is compliant with relevant equalities legislation.

### Internal Exclusion

Internal exclusion is a process within the school and is used when the objective is to remove the pupil from class, not from the school site, for disciplinary reasons. It is not a legal exclusion so exclusions legislation and the department's guidance on exclusion from school does not apply. Sending a pupil off site for behavioural reasons is a legal exclusion and has to be dealt with and recorded as such.

Internal exclusion may serve a number of different purposes, although its primary function is as a sanction to accommodate those pupils who have been removed from a lesson at very short notice for

poor behaviour.

Internal exclusion is a planned strategy and could be in response to an incident involving a high level of violence, or threatened violence, to staff, other pupils or property in school. The aim is to avoid a formal exclusion with the intention that the consequences of aggressive behaviour are managed confidently and consistently within the school setting.

An internal exclusion could be for the duration of a session which could include break-times and lunch-times or for longer periods of the day. It is essential that these times are managed consistently by staff so children perceive that staff response is firm and not open to negotiation, and their behaviour is deemed appropriate.

The internal exclusion should be carefully planned, considering both location and staffing. An internal exclusion may be managed within the classroom in a designated area. This could be at the back of the class or an area separated by a screen. Where this is not practical the internal exclusion will take place in another designated area that is safe and able to be supervised appropriately.

If, for example, the child is aggressive during the day it may not be practical for them to return to their group as this behaviour may have unsettled the group. The child will need to be supervised on their internal exclusion in another designated area and this will need to be risk assessed via the senior leadership team if there is a likelihood of further aggressive behaviour which could mean that the internal exclusion will be until the end of the day on the basis of the safety of all involved.

It is important that staff manage this time with a serious disposition. The child and the rest of the class need to be aware of the gravity of the situation and that improvement in behaviour must be made. An internal exclusion reinforces the need to accept responsibility for the consequences of inappropriate behaviour in school.

An internal exclusion is never a “soft option.” It is a planned and considered intervention to avoid a formal exclusion.

Internal exclusions will be monitored in the same way as incidents in general. Evidence of regular internal exclusions will prompt further dialogue with parents/carers, the seriousness of which will be apparent to all concerned with the process having been clearly logged over time.

Our aim is to reduce formal exclusions by ensuring more effective responses to inappropriate behaviour in school. Internal exclusion is an integral part of this process and for this reason must be implemented and maintained.

### **Formal Fixed Term/Permanent Exclusion**

Permanent exclusion should only be used as a last resort, 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 in the school.

The decision to exclude a pupil must be lawful, reasonable and fair. Schools have a statutory duty not to discriminate against pupils on the basis of protected characteristics, such as disability or race. Schools should give particular consideration to the fair treatment of pupils from groups who are vulnerable to exclusion.

Disruptive behaviour can be an indication of unmet needs. Where a school has concerns about a pupil's behaviour it should try to identify whether there are any causal factors and intervene early in order to reduce the need for a subsequent exclusion. In this situation schools should give consideration to a multi-agency assessment that goes beyond the pupil's educational needs.

Schools should have a strategy for reintegrating pupils that return to school following a fixed period exclusion, and for managing their future behaviour. All children have a right to an education. Schools should take reasonable steps to set work for pupils during the first five school days of exclusion, and alternative provision must be arranged from the sixth day. There are obvious benefits in arranging alternative provision to begin as soon as possible after exclusion.

Where parents dispute the decision of a governing body not to reinstate a permanently excluded pupil, they can ask for this decision to be reviewed by an independent review panel. Where there is an allegation of discrimination (under the Equality Act 2010) in relation to a fixed-period or permanent exclusion, parents can also make a claim to the First-tier Tribunal (for disability discrimination) or a County Court (for other forms of discrimination).

An independent review panel does not have the power to direct a governing body to reinstate an excluded pupil. However, where a panel decides that a 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 governing body to reconsider its decision.

Parents have the right to request the presence of a Special Educational Needs and Disabilities (SEND) expert at an independent review panel. The SEND expert's role is to provide impartial advice to the panel about how SEND could be relevant to the exclusion; for example, whether the school acted reasonably in relation to its legal duties when excluding the pupil.

Excluded pupils should be enabled and encouraged to participate at all stages of the exclusion process, taking into account their age and understanding.

### **The Headteacher's power to exclude**

Only the Headteacher of a school can exclude a pupil and this must be on disciplinary grounds. 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. A fixed period exclusion does not have to be for a continuous period. In exceptional cases, usually where further evidence has come to light, a fixed period exclusion may be extended or converted to a permanent exclusion.

The Headteacher may withdraw an exclusion that has not been reviewed by the governing body.

Any decision of a school, including 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 exclusions and a school's wider legal duties, including the European Convention of Human Rights); rational; reasonable; fair; and proportionate.

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

When establishing the facts in relation to an 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'.

Under the Equality Act 2010 ("the Equality Act") schools must not discriminate against, harass or victimise pupils because of their: sex; race; disability; religion or belief; sexual orientation; because of a pregnancy / maternity; or because of a gender reassignment. For disabled children, this includes a duty to make reasonable adjustments to policies and practices.

In carrying out their functions under the Equality Act, the public sector equality duty means schools must also have due regard to the need to:

- eliminate discrimination and other conduct that is prohibited by the Equality Act;
- advance equality of opportunity between people who share a protected characteristic and people who do not share it; and
- foster good relations across all characteristics – between people who share a protected characteristic and people who do not share it.

These duties need to be taken into account when deciding whether to exclude a pupil. Schools must also ensure that their policies and practices do not discriminate against pupils by unfairly increasing their risk of exclusion. Provisions within the Equality Act allow schools to take positive action to deal with particular disadvantages affecting one group, where this can be shown to be a proportionate way of dealing with such issues.

Headteachers and governing bodies must take account of their statutory duties in relation to SEND when administering the exclusion process. This includes having regard to the SEND Code of Practice.

It is unlawful to exclude or to increase the severity of an exclusion for a non-disciplinary reason. For example, it would be unlawful to exclude a pupil simply because they have additional needs or a disability that the school feels it is unable to meet, or for a reason such as: academic attainment / ability; the action of a pupil's parents; or the failure of a pupil to meet specific conditions before they are reinstated.

Any exclusion of a pupil, even for short periods of time, must be formally recorded.

Maintained schools have the power to direct a pupil off-site for education if appropriate. A pupil can also transfer to another school as part of a 'managed move' where this occurs with the consent of the parties involved, including the parents. However, the threat of exclusion must never be used to influence parents to remove their child from the school.

### **Statutory guidance on factors that a Headteacher should take into account before taking the decision to exclude**

A 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 in the school.
- The decision on whether to exclude is for a Headteacher to take. However, where practical, Headteachers should give pupils an opportunity to present their case before taking the decision to exclude.

Whilst exclusion may still be an appropriate sanction, Headteachers should take account of any contributing factors that are identified after an incident of poor behaviour has occurred. For example, where it comes to light that a pupil has suffered bereavement, has mental health issues or has been subject to bullying.

Early intervention to address underlying causes of disruptive behaviour should include an assessment of whether appropriate provision is in place to support any SEND that a pupil may have. Headteachers should also consider the use of a multi-agency assessment for pupils who demonstrate persistent disruptive behaviour. Such assessments may pick up unidentified special educational needs but the scope of the assessment could go further, for example, by seeking to identify mental health or family problems.

Where a pupil has received multiple exclusions or is approaching the legal limit of 45 school days of fixed period exclusion in an academic year, Headteachers should consider whether exclusion is providing an effective sanction.

## **Statutory guidance to Headteachers on the exclusion of pupils with statements of SEND, Educational Health Care Plans (EHCP) and Children who are Looked After (CLA)**

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 statements, EHCPs and CLA. Headteachers should, as far as possible, avoid excluding permanently any pupil with a statement of SEND/EHCP or a child who is looked after.

Schools should engage proactively with parents in supporting the behaviour of pupils with additional needs. In relation to children who are looked after, schools should co-operate proactively with foster carers or children's home workers and the local authority who look after the child.

Where a school has concerns about the behaviour, or risk of exclusion, of a child with additional needs, a pupil with a statement of SEND/EHCP or CLA, it should, in partnership with others (including the local authority as necessary), consider what additional support or alternative placement may be required. This should involve assessing the suitability of provision for a pupil's SEND. Where a pupil has a statement of SEND/EHCP, schools should consider requesting an early annual review or interim / emergency review.

### **Duties to Inform Parties Following an External Exclusion**

When all other reasonable steps have been taken and it is the Headteacher's judgement that allowing the child to remain in school would be seriously detrimental to the welfare of others, then a pupil may be permanently excluded.

Once the decision has been made to exclude a pupil the school will follow the procedures outlined in the 'DfE Exclusion from maintained schools, academies and pupil referral units in England 2017' document to inform all parties.

### **Related Publications**

- Exclusion from maintained schools, Academies and pupil referral units in England: A guide for those with legal responsibilities in relation to exclusion 2017
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- Behaviour Policy
- Physical Intervention Policy
- Children who are Looked After (CLA) Policy