

Kempshott Junior School

Excluding a Child from School Policy

Policy Ratified by Governing Body	HCC Policy	Review 3 Yearly
Date of Review	7 June 2019	
Date of Next Review	7 June 2021	

Safeguarding Statement

At Kempshott Junior School we respect and value all children and are committed to providing a caring, friendly and safe environment for all our pupils so they can learn, in a relaxed and secure atmosphere. We believe every pupil should be able to participate in all school activities in an enjoyable and safe environment and be protected from harm. This is the responsibility of every adult employed by, or invited to deliver services at Kempshott Junior School. We recognise our responsibility to safeguard all who access school and promote the welfare of all our pupils by protecting them from physical, sexual and emotional abuse, neglect and bullying.

What Does Exclusion Mean?

An exclusion means that a pupil is not allowed to attend school or go on to school premises for a period of time or permanently. However, Hampshire Local Authority and schools work with parents, pupils and a wide range of other agencies to help prevent exclusions. Head Teachers may use exclusion as a way of managing the behaviour of pupils. It is also used as a way of giving clear messages to the pupil involved and the whole school community, that certain kinds of behaviour are unacceptable.

This can be a very upsetting, difficult and worrying time for you and your child.

This guidance explains:

- what you can do if you want to talk to the school about the exclusion;
- what you can do if you disagree with the exclusion;
- what you can do to prevent further exclusions; and
- where you can go for further advice and support.

There are two types of exclusion from school:

a) Fixed Period Exclusion:

This will be for a fixed number of school days – Head Teachers must not exclude for an indefinite number of days. An individual fixed period exclusion should be for the shortest time necessary, bearing in mind that exclusions of more than a day or two make it more difficult for the pupil to reintegrate back into the school afterwards;

- must not exceed 45 school days in an academic year either as a single exclusion or a number of shorter exclusions added together;
- may be for lunchtimes but should not be for a long period - other ways of dealing with the problem should be worked out. If your child has free meals, the school must make other arrangements such as a packed lunch;
- in exceptional cases may be extended or made permanent. If this happens, the Head Teacher must write to you again giving the reasons for the change.

b) Permanent Exclusion:

This means the Head Teacher believes that the school can no longer meet the needs of your child. The Head Teacher believes that your child should not be allowed back at the school.

The Head Teacher's decision is reviewed, at a meeting, by a panel of Governors. You and your child have the opportunity to have your say at the meeting and you may be represented by someone who can speak on your behalf or you can be supported by a friend if you wish. If the Governors agree with the Head Teacher's decision to permanently exclude your child, you have a legal right to review with an Independent Review.

Should My Child Have Been Excluded?

Government guidance says that your child should only have been excluded:

- in response to serious or persistent breaches of the school's behaviour policy **and**
- where allowing him or her to remain in school would seriously harm the education and welfare of your child or others in the school.

Government Guidance is contained in a document called **“Exclusion from maintained schools, Academies and Pupil Referral Units in England”**

www.gov.uk/government/publications/school-exclusion

‘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. Pupils who repeatedly disobey their teachers' academic instructions could, however, be subject to exclusion.’¹

Your child can be excluded for behaviour outside school if the Head Teacher feels that there is a clear link between that behaviour and maintaining good behaviour within the school.

Only Head Teachers (or the nominated member of staff in their absence) have the authority to exclude a pupil. The Head Teacher should not exclude your child in the heat of the moment, unless there was an immediate threat to the safety of your child or others in the school.

The Head Teacher may exclude your child if they feel that on 'the balance of probabilities' they did what they are accused of. The more serious the behaviour your child is accused of, the stronger the evidence against them needs to be.

Before deciding to exclude your child the Head Teacher should:

- make sure that a thorough investigation has been carried out;
- give your child a chance to say what happened;
- think carefully about the evidence available;
- ensure that the exclusion is for the shortest time necessary;
- take into account the school's Behaviour and Equality Policies and, if appropriate, the Race Relations Act and Disability Discrimination Act;
- check whether bullying or racial or sexual harassment of your child led to your child's actions;
- if necessary consult others.

The School will Contact You About the Exclusion

The Head Teacher or their nominated representative will let you know immediately (generally by telephone) about the length of the exclusion and the reason for it. This will be followed up immediately in a letter which includes:

- The reason for the exclusion;
- length and time of the exclusion and date for return (if fixed-period);
- how your child can continue their education – schools should arrange for setting and marking work for the pupil to do during the first five days of the exclusion, (it is the parents' responsibility to ensure that work sent home is completed and returned to school);
- details of how your child should continue their education – Head Teachers must arrange suitable appropriate full time education from the sixth day of the exclusion, if the exclusion is a fixed period exclusion of 6 or more days. If the exclusion is permanent, the Local Authority must arrange suitable appropriate full time education from the sixth day of the exclusion.

- your right to state your case to the Governors' Discipline Committee and how your child may be involved in this; who you should contact
- the phone numbers of the Inclusion Team at the local Children's Services office who can advise you;
- your rights under the Equality Act;
- Child Law Advice service information contact details.

What Should I Do Now?

If your child has been excluded you can make all the difference in getting your child back on track and helping them to be successful. Work will be set by the school for your child to complete at home during the first five days of the exclusion (it is your responsibility to ensure completed work is returned to the school for marking). During the first five days of the exclusion you have a duty to ensure that your child is not present in a public place during school hours unless there is reasonable justification for this. You may receive a penalty notice from the Local Authority if your child is present in a public place during school hours during the period of the exclusion.

Schools may arrange a re-admission meeting following any period of exclusion. The purpose of this interview is to assist your child with reintegration back into the school and to promote good behaviour.

At either the re-admission meeting or reintegration interview, ask the Head Teacher or senior member of staff how you can help. You will be able to support your child and the school in many ways, this may include:

- getting involved in planning and setting targets for your child if he/she is excluded on a fixed period basis;
- looking at a home/school book or report every evening which tells you how your child is doing;
- talking to your child about his/her learning and progress and praising success;
- making sure that you support the school's behaviour policy by using similar rules at home and letting your child know that you will not accept poor behaviour;
- attending parents' meetings and making contact with your child's Teacher;
- letting the school know if you are in any way worried about how your child might behave (for example, something may have happened out of school which has upset them);
- letting the school know what strategies you use at home and what seems to work with your son or daughter. You know your child best after all.

What Can I do if I Disagree with the Exclusion?

Request an appointment with the Head Teacher to discuss your concerns and ask him/her to reconsider the exclusion.

Ask the Governors to review the decision, you will need to send a letter to the Clerk of the Discipline Committee (addressed to the school) as soon as possible after you get the letter telling you about the exclusion.

Governors must meet to review certain exclusions and must consider any representations about an exclusion made by you. For fixed-period exclusions of 1-5 days in a term the governors must consider your representations but do not have to meet. For exclusions of 1-5 days governors are unable to shorten the exclusion, but can place a note of their findings on your child's file. For exclusions of 6-15 days governors must hold a meeting if you request one. For fixed period exclusions of more than 15 days and permanent exclusions governors must hold a meeting to review the exclusion whether you request them to do so or not. You and your child will be invited to attend this meeting.

Prepare What You Want to Say.

It is a good idea to write down your views as soon as possible and send them to the Clerk of the Governors' Discipline Committee giving them time to circulate your written view before the meeting (this is particularly important if you are unable to attend the meeting). If you do not have time to do this, and you are attending the meeting, take copies with you. It is better if you write down what you want to say even if you will be attending the meeting in person. If you have posted your views in writing prior to the meeting, you should still attend in person with your child (it is normally left to the parent to decide if it is appropriate for the child to attend) as you will be able to make additional comments at the Governors' Discipline Committee meeting. You should consider the following things when preparing what you want to say: -

What Does Your Child Say About the Exclusion?

Try to talk to your child as soon as possible, ask your child what happened. You or your child should write down what is said. If you are not clear about what happened, go back to the beginning and question them closely e.g. "Show me exactly where you were." "Where was everyone standing?" "Did anything lead up to this?" "What exactly did the Teacher say?" Write the details out as fully as you can. Was this a serious breach of the school's behaviour/discipline policy? If you don't think it was, explain why. Your child's view of the incident is very important, and every opportunity should have been made for your child to make a statement. If your child now wants to apologise for something, they could do so in writing and/or do so at the meeting if you and your child are attending. Your child may need to think of ways of putting the situation right if possible.

What Do Others Say?

Look at what the Head Teacher says, look at what others say. Did the school take statements from your child and witnesses? You may see all the statements. Does anyone support your child's version of events? If so try to get a statement from them with clear details. If there are important disagreements between the statements, mark them. Has there been a misunderstanding?

You May Want to Say a Little About Your Child:

What sort of person is your child? Imagine you are describing them to a stranger. Remember their good points. Are there any reports which show what your child is like? Is there someone official, like a playgroup leader, doctor, youth worker or employer, or, perhaps, a neighbour who might write a letter about them? Describe your child and add anything that explains your child's behaviour and/or shows that exclusion may be wrong or too long.

Think About Your Child at the Time of the Exclusion:

Was anything upsetting your child? Was there pressure from others? Could anything else have affected their behaviour? Have they been bullied, racially or sexually harassed or faced discrimination, inside or outside school? If drugs are involved, is your child more likely to be in contact with drugs through not being in school? If your child was at school instead of being excluded would this seriously harm the education and welfare of themselves or others?

Think About the Incident:

If others were involved in the same incident, the Governors' Discipline Committee will consider the fairness of the treatment of both your child and the other children involved in the incident.

Check Your Child's School Record:

You may have access to your child's full school record (not just their academic record). Does it include information which is new to you and may affect your case? There may be information relating to your child that is confidential to the school. The school cannot share this with you but will share the full school record.

Consider any Special Circumstances

The DfE Exclusions' guidance says that the exclusion rates for certain groups of pupils are "consistently higher than average" and explains

Head Teachers should consider what extra support might be needed. Examples of these are:

Children who are: starting primary or secondary school; from minority ethnic backgrounds; in care (looked after); in receipt of free school meals; traveller children; young carers; from families under stress; pregnant schoolgirls and teenage mothers; unaccompanied asylum seekers.

The DfE Exclusions' guidance says these children are "particularly vulnerable to the impacts of exclusion" and explains Head Teachers should consider what extra support might be needed. Even if your child is in one of these groups, they may still be excluded if the situation or incident is so serious that the Head Teacher decides that there is no alternative other than to exclude.

Does Your Child Have Emotional and Behavioural Difficulties and/or a Learning Difficulty?

If your child's behaviour is much more difficult than average and/or perhaps they cannot control their feelings so their school work is disrupted, they may have emotional and behavioural difficulties which are affecting their learning. A child with special educational needs may need extra help at school. If your child does not get the help they need, this may lead to poor or worsening behaviour. Further information is in the Special Educational Needs Code of Practice, this is available from the Local Authority.

If your child is undergoing a statutory assessment, the school should make every effort not to exclude him or her. If your child already has a statement of special educational needs and the school has tried all alternatives to exclusion, the Head Teacher should liaise with the Local Authority about initiating an interim annual review. If the Head Teacher does decide to permanently exclude, the Head Teacher should use the time between the initial decision and the Governors' Discipline Committee meeting to see whether more support could be made available or whether the statement could be amended to name an alternative school.

Were Drugs Involved?

Check the school's policy on drugs. The Head Teacher should consult the school's drugs co-ordinator and take account of both the policy and the precise circumstances of the case.

Was Discrimination, Harassment or Bullying Involved?

Check the school's racial equality policy and behaviour policy. If you feel bullying, discrimination or harassment were involved in the incident explain why.

Has Your Child a Recognised Disability? Do you Believe that the Exclusion was as a Result of Behaviour Related to Your Child's Disability?

Schools have a legal duty not to discriminate against disabled pupils by excluding them from school because of behaviour related to their disability. An exclusion of a disabled pupil for a reason related to their disability can only be justified if there is a material and substantial reason for it. If other reasonable steps could have been taken by the school and were not, then it may not be possible to justify the pupil's exclusion. Where there is an allegation of discrimination (under the Equality Act 2010) in relation to a fixed-period or permanent exclusion, you may make a claim to the First-tier Tribunal (for disability discrimination) or a County Court (for other forms of discrimination).

Consider Strategies used to Improve Behaviour

Schools should work with you and your child to avoid exclusions. Any problems should be discussed with you at an early stage and an action plan to improve behaviour agreed with you and your child. Any particular strategies that are to be used to prevent further exclusions such as managed move, restorative justice, mediation and internal exclusion should have been considered and explained to you. Look at what the school has done to help your child improve their behaviour. Do you feel that there is anything else the school could have tried?

If, despite using strategies to modify behaviour, your child had several fixed period exclusions and was in danger of permanent exclusion, the school should have produced a Pastoral Support Programme (PSP) and warned you of the risk of permanent exclusion. The PSP (sometimes called an Individual Behaviour Plan) should have been agreed with you and should help your child to

manage their behaviour better. The school should also seek help from the Local Authority, support services (e.g. Locality Team, Educational Psychology or Education Inclusion Service).

Sources of further advice and guidance are listed on page 13 of this booklet.

What Happens if I do Not Make Representations?

The Governors' Discipline Committee still has to meet to review permanent exclusions and fixed period exclusions over 15 days in one term, whether or not you or your child wishes to have their say or attend.

The Governors' Discipline Committee Meeting

The governors committee which meets to review exclusions is known as the Governors' Discipline Committee and consists of at least three governors.

If the exclusion is between six and fifteen days in a term, and the parents request a meeting, then the Governors' Discipline Committee must meet within 50 school days.

The Governors' Discipline Committee must always meet to consider exclusions greater than fifteen school days in a term, and all permanent exclusions. The meeting must take place between the sixth and the fifteenth school day after the governing body has been notified of the exclusion.

The role of the Governors' Discipline Committee is to act as another 'set of eyes' to review the Head Teacher's decision to exclude. Exclusions are very serious and the governors will review whether the exclusion has been carried out correctly and takes account of the needs of your child. They are not a rubber stamping body.

The Clerk to the Committee will write to you confirming the date and time of the meeting. At least five school days in advance the school will send you the paperwork which will be considered at the meeting. The paperwork will include your written representation if you have submitted one.

Other paperwork that may be included is:

- witness statements and your child's version of events, if appropriate;
- a behaviour diary and academic reports;
- information on your child's special educational needs;
- if there is an individual education plan this will include your child's difficulties, the school's strategies, support and reviews, and information on other services involved;
- a pastoral support programme which may include the involvement of other agencies for pupils who have been, or are at risk of being, permanently excluded;
- attendance records
- any other relevant documentation.

The following people will attend the meeting:

- the Governors, one of whom will act as Chair of the Committee. The committee must be quorate (i.e. there must be a minimum of 3 governors);
- a Clerk to take notes and can advise on procedure;
- a Local Authority representative will attend permanent exclusions and exclusions of 16 days or more;
- the Head Teacher and/or a senior member of staff;
- the parents or carers - think about taking a friend or advocate/adviser to the meeting with you if the support would be helpful; the Local Authority can put you in touch with Parent Partnership if you think this would be useful;
- your child - unless they are very young or there are strong reasons against them attending, it is important that your child is given every opportunity to have his/her say;
- witnesses may be called to give evidence but do not normally remain for the full meeting.

The meeting will follow a clear agenda which gives everyone an opportunity to have their say. If you attend the meeting you will have an opportunity to put forward your point of view and refer to your written representation if you have done one. The agenda for the meeting will be as follows:-

- Head Teacher's or nominated representative's presentation;
- questions by the parents and Governors;
- parents' representation (a friend or representative and your child may also attend);
- questions by the Head Teacher and Governors;
- Local Authority's statement (for permanent exclusions);
- summing up by the school;
- summing up by the parents;
- all parties will leave the Governors to discuss the information and make a decision. You will be notified of the Governors' decision within one school day.

The Governors' Discipline Committee must consider, on a balance of probability:

- whether your child did what he/she is alleged to have done and what behaviour policies were not followed;
- whether the correct procedures were used;
- the seriousness of the incident, and the appropriateness of the length of the sanction;
- the likelihood of the incident being repeated if your child was allowed to return;
- the fairness of the exclusion in relation to any other pupils involved in the same incident;
- any relevant previous misbehaviour;
- the support provided by the school and for how long it was provided
- any special educational needs and disabilities your child may have;
- any mitigating circumstances (e.g. being bullied).

The Discipline Committee's decision will be to:

- **Uphold** the exclusion if it agrees with the Head Teacher's decision; or
- **Allow your child to return to school*** immediately or on an agreed date. (*This is officially called 'Reinstatement')

What Happens Next?

In cases where there has been a Governors' Discipline Committee meeting, the committee should put their views on the exclusion and the Head Teacher's exclusion letter on your child's record. If you wish, your views can be added. The Governors Discipline Committee will write to you telling you their decision.

Fixed Period Exclusions

A reintegration interview with parents during or following the end of any fixed period exclusion would be good practice but it is not a legal requirement. An agreed plan would be helpful to be put in place to prevent any further exclusions.

There are no rights of appeal for fixed-period exclusions. However, if you consider that your child has a disability and you feel that he/she has been discriminated against in this exclusion, you 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). Web site address is below: <http://www.justice.gov.uk/tribunals/send>

A claim of discrimination made under these routes should be lodged within six months of the date on which the discrimination is alleged to have taken place, e.g. the day on which the pupil was excluded.

Permanent Exclusions

If the decision is to reinstate you will need to ensure that you, your child, school staff and the appropriate agencies work together to ensure that your child's return to school is successful.

If the governors agree with the permanent exclusion you will have 15 school days to decide whether you wish to request a review to an independent review panel.

If you decide to request a review you must write to the named contact or the Inclusion Officer (where identified) and include your reasons for requesting the review. The Clerk to the Independent Review Panel will then be in contact with you to advise you further.

You can only make representations to an Independent Review Panel if the exclusion is permanent.

Whether or not a school recognises that a pupil has special educational needs (SEN), all parents (or pupils if aged 18 or over) have the right to request the presence of a SEN expert at an independent review panel. The SEN expert's role is to provide impartial advice to the panel about how SEN could be relevant to the exclusion; for example, whether the school acted reasonably in relation to its legal duties when excluding the pupil.

If you consider that your child has a disability and you feel that he/she has been discriminated against in this exclusion, please contact the Equality Advisory Support Service which offers advice and support on discrimination and human rights issues and the applicable law.

Phone: 0808 800 0082 or website: <http://www.equalityadvisoryservice.com/>

Independent Reviews

You have 15 school days to write to the Local Authority office (or, in the case of an Academy, their named person) to request a review. You must put in writing your reasons for requesting the review. You will not be allowed the review if you miss the deadline. The hearing must be held no later than 15 school days after your letter is received. The role of the panel is to review the governing body's decision not to reinstate your child. In reviewing the decision, the panel must consider the interests and circumstances of your child and the circumstances in which he/she was excluded, and consider the interests of other pupils and people working at the school.

You may still request a review, even if you do not wish your child to return to the school.

For Local Authority schools the Review Panel is set up by Hampshire County Council's Legal Services Department. Academies may access the County Council services or an independent body for their review panels. The three panel members must be independent but will comprise one lay member who will act as Chair, one serving governor (or recently retired) of a maintained school and one serving Head Teacher (or retired in the last 5 years). They must not have had any connection with anyone which might reasonably be taken to raise doubts about their ability to act impartially. An independent review panel does not have the power to direct a governing body to reinstate an excluded pupil. However, it can come to the following conclusions:

Uphold the exclusion decision and your child will remain permanently excluded (see paragraph 7 below).

Recommend that a Governing Body reconsiders its decision – the Governors Discipline Committee will need to reconvene within 10 school days of being given notice to reconsider their decision.

Quash the decision of the Governing Body where it considers that the decision was flawed in light of the principles applicable on an application for judicial review – the Governors Discipline Committee will need to reconvene within 10 school days of being given notice to reconsider their decision.

What Happens if my Child Remains Permanently Excluded?

Your child will have been receiving full time education from the sixth day of the exclusion. The duty to provide appropriate full time education will remain with the Local Authority, and a long term assessment of the pupil's needs will take place. The Local Authority will be working to prepare the child to return to a local school. Some children may be ready to return immediately, others would benefit from some time to address their behaviours in a more focused way. The Local Authority, through an array of alternative education packages, will assess the best way forward.

When a child is considered ready to return to a school, this will be discussed with you and you will be asked about which schools you might prefer. This is then discussed at an area placement panel. This is a panel made up of the local schools and Local Authority representatives who meet at regular intervals (approx. every six weeks) to consider children that for one reason or another do not have a place at a local school. After considering your preference and the needs of your child, a place in a school is allocated by the Panel.

Preventing Further Exclusions

Keep in regular contact with your child's Class Teacher.

Ensure that you and your child are involved in any future planning meetings or multi-agency meetings including those to initiate or review an Individual Education Plan (IEP). These are plans, created by the school, which describe how your child's special educational needs, including behaviour, will be met within the school.

If your child is at risk of **permanent** exclusion, a more extensive programme called a pastoral support programme (PSP) may be created.

Find out from your school whether there are any other agencies who could help to identify the reasons for your child's behaviour and/or be involved in helping to improve their behaviour.

These agencies might include:

From the Local Authority:

- Primary Behaviour Service (Primary schools only)
- Education Inclusion Service (EIS) which may offer support in school or in one of its Education Centres
- Educational Psychology Service (EPS)
- Locality Team

From the Health Service:

Child and Adolescent Mental Health Service via your family doctor which offers family support and counselling and referral for psychiatric assessment if appropriate.

Further Information, Advice and Guidance

The Inclusion Team at the Local Children's Services Office:

East Hampshire Alton (Inclusion Officer) ☎ 02392 441527
West Hampshire Winchester (Inclusion Officer) ☎ 01962 876311

Special Educational Needs

Supprt4SEND offers parents advice and support on special educational needs issues
☎ 01962 845870

Coram Children's Legal Centre

☎ 0300 330 5485

<http://childlawadvice.org.uk/information-pages/school-exclusion/>

Department for Education

The Department for Education (DfE) has published guidance to schools, Governors and Local Authorities on handling behaviour and procedures for exclusion.

The Guidance together with other web based documents and guidance can be found at:

www.gov.uk/government/publications/behaviour-and-discipline-in-schools and
www.gov.uk/government/publications/behaviour-and-discipline-in-schools-guidance-for-governing-bodies

Other useful contacts:

Equality Advisory Support Service ☎ 0808 800 0082
SEN and disability discrimination tribunal ☎ 01325 392760
Talk to Frank drugs helpline ☎ 0300 123 6600

Data Protection Act/GDPR 2018: You are advised that information on pupils is routinely registered on manual and electronic systems as part of their records.

Everyone working in Children's Services has a legal duty to keep information secure & confidential.