

St. John Bosco RC Primary School



Exclusion Guidance

EXCLUSION GUIDANCE

1.1 The DFE's Exclusion Guidance, September 2017

The DFE published new statutory guidance on Exclusions in July 2017. The statutory guidance commences from September 2017. Therefore, Headteachers should refer to this document when excluding pupils from 1st September 2017.

Web Link: <https://www.gov.uk/government/publications/school-exclusion>

The guidance details the legal responsibilities for those who exclude students from educational settings. The guidance governs the exclusion of pupils from local authority maintained schools, academies and free schools, pupil referral units and alternative provision academies. This statutory guidance sets out what schools and local authorities must do to comply with the law.

The new statutory guidance includes updates on the exclusion review process and includes non-statutory annexes for Headteachers and parents. The changes were introduced to provide clarity around the exclusion process.

The guidance now states that the law does not allow for extending a fixed-period exclusion or 'converting' a fixed period exclusion into a permanent exclusion.

The guidance also suggests that parent/carer should be notified of the exclusion in person by telephone in the first instance allowing the parent/carer an opportunity to ask any initial questions or raise concerns directly with the Headteacher.

Non-statutory guidance for Headteachers have been included that suggests that all schools should have a behaviour policy which should include processes for identifying and supporting pupils' additional needs. The guidance also suggests that there should be a system in place that ensures the Headteacher is aware of any pupils showing persistent poor behaviour or not responding to low level sanctions - including the consideration of engaging with foster carers, children's home workers, the local authority and the virtual school head.

Previous training sessions with schools staff/governors has identified that some schools still believe that once a child has been given 45 days of exclusions they become permanently excluded. This is not the case. The guidance states that a child can only be excluded up to 45 school days in one school year, even if the pupil has changed schools during the academic year. 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, the Headteacher should consider whether exclusion is providing an effective sanction.

Additional guidance on the process of Independent Panel Reviews has also been included in the new guidance. This includes further guidance relating to a governing body's duty to reconsider reinstatement following a review.

Relevant web links referred to in the Exclusion guidance includes;

- *Exclusion from maintained schools, academies and pupil referral units in England – Statutory guidance, Department for Education.*
- *School Discipline and Exclusions – Department for Education*
- *Coram Children's Legal Centre*
- *ACE Education*
- *National Autistic Society (NAS) Exclusion Service (England)*
- *Independent Parental Special Education Advice*

N.B. Together for Children is not responsible for the content of external sites.

1.2 Notifying the L.A. of exclusions.

The Headteacher has a duty to inform the governing body and the local authority about an exclusion, without delay, if;

- *a permanent exclusion*
- *exclusions which would result in the pupil being excluded for more than five school days (or more than 10 lunchtimes) in a term; and*
- *exclusions which would result in a pupil missing a public examination or national curriculum test*

The vast majority of schools notify the Local Authority, via Business Support – Exclusions, either by emailing or posting a copy of the letter notifying parent of the exclusion. This allows the data to be accurate if the DFE/Secretary of State request information on exclusions within the preceding 12 months. Together for Children encourage schools

to continue to forward copies of notification letters to parents to Business Support – Exclusions. See email address and postal address details below.

1.3 Full-time education (fixed exclusion)

For a **fixed period exclusion** of more than five school days, the governing body must arrange suitable full-time education for any pupil of compulsory school age. Provision must begin no later than the sixth day of the exclusion. Where it is not possible to arrange full-time education within the first five days of an exclusion, schools should take reasonable steps to set and mark work for pupils.

Informal or unofficial exclusions, such as sending pupils home ‘to cool off’ are unlawful, regardless of whether they occur with the agreement of parents/carers. All exclusions must be formally recorded.

For Looked after Children, DFE guidance states that schools and local authorities should work together to arrange alternative provision from the first day following the exclusion (see also 1.5 below).

Parents/carers have a right to request the governing body consider an exclusion. How governors consider this exclusion varies on whether the exclusion is fixed or permanent. If a pupil is fixed term excluded for less than 6 days in a term the governing body must consider any representation made by parents/carers but they do not have the power to reinstate the pupil. The governing body do not necessarily have to meet to do this.

Where a pupil has been fixed term excluded more than 5 days in a term but less than 16 days parents/carers can request a governing body meeting. A governing body must convene a meeting to consider reinstatement within 50 days of receiving notice of the exclusion.

Where a pupil has been fixed term excluded for more than 15 days in a term the governing body must convene a meeting to consider reinstatement within 15 days of parent/carer receiving notice of the exclusion.

1.4 Full-time education (permanent exclusion)

If a pupil is permanently excluded from any school, Together for Children, on behalf of Sunderland City Council, has the duty to provide other suitable education. A pupil may be placed in another school or other suitable arrangements may be made.

The Local Authority request that all schools that permanently exclude a pupil notify both me and the Business Support – Exclusion Team to ensure arrangements can be made.

Where a pupil has been permanently excluded a governing body must convene a meeting to consider reinstatement within 15 days of the parent/carer receiving notice of the exclusion.

1.5

1.5 School Exclusions for Looked After Children

Statutory guidance, Promoting the education of looked after children, published on 23 July 2014 states that *‘Headteachers should, as far as possible, avoid excluding any looked-after child. Where a school has concerns about a looked-after child’s behaviour, the Virtual School Head should be informed and where necessary, involved at the earliest opportunity’*.

The new Exclusion guidance, published in July 2017 also states that *‘there are certain groups of pupils with additional needs that are particularly vulnerable to the impacts of exclusion. The Headteacher, should as far as possible, avoid permanently excluding any pupil with an EHC plan or a looked after child’*. This guidance also advises head teachers should consider early intervention to address underlying causes of behaviour and extra support, including engaging proactively with carers or children’s home workers, the local authority that looks after the child and the local authority’s virtual school head.

Point 14 of the Exclusion guidance is very clear in informing head teachers that ‘informal’ or ‘unofficial’ exclusions are unlawful - regardless of whether they occur with agreement of a parent/carer.

It is expected that schools contact the virtual head teacher or designated lead immediately when excluding a looked after child.

The Virtual School Designated Lead is Trish Stoker, contact details below.

1.6 Removing a permanently excluded pupil from the school register.

In the last academic year there have been a number of schools that have taken pupils off-roll as soon as they have been

permanently excluded. It is illegal to remove a pupil from roll in the first instance.

The Headteacher can remove a pupil's name from the school admissions register if;

- *15 school days have passed since the parents/carers were notified of the governing body's decision to uphold a permanent exclusion and no application has been made for an independent review panel; or*
- *The parents/carers have stated in writing that they will not be applying for an independent review panel.*

Where an application for an independent review panel has been made, the Headteacher must wait until the review has been determined, or abandoned, before removing a pupil's name from the register. Where a pupil's name is to be deleted from the school's admission register a return must be made to the Local Authority. Schools are to complete a 'Removal From Roll' form and forward it to Business Support – Attendance. . See email address and postal address details below.

1.7 Data Recording - Exclusions

COLLECT, the Department for Education's centralised data collection and management system has identified a number of queries re: exclusions in Sunderland. On some occasions school data returns do not correspond with Local Authority returns regarding the **reason** for the fixed or permanent exclusion. The anomalies are occurring whereby a school has identified a number of reasons for an exclusion. Together for Children will always record the first reason (identified in any written notification to parent/carer) as the **primary reason** for the exclusion on the management information system. Therefore, please ensure that the information you are providing to parents/carers regarding the reason for the exclusion corresponds with the data recorded on your Management Information System. Please see Appendix 1 for DFE exclusion codes and descriptors.

Where fixed exclusions duration is for 0.5 day, please ensure that you advise whether the exclusion is for a morning (a.m.) or afternoon (p.m.) session.

Together for Children on behalf of Sunderland City Council, cannot be responsible for any inaccuracies recorded by schools.

1.8 Statutory guidance to schools on marking attendance registers following exclusion

Whilst an excluded pupil's name remains on a school's admissions register the pupil should be marked using the appropriate attendance code.

- Where alternative provision has been made (that meets the requirements of the pupil registration regulations), and the pupil attends, Code B (Education off-site) or Code D (Dual Registration), should be used. Code D is used for dual registration of pupils attending a DFE registered school (i.e. Sunderland Link Schools, Key Stage 1 PRU, special school or another local school). Where pupils are attending alternative provision that is not registered with DFE then Code B should be used.
- Where pupils are not attending an alternative education setting they should be marked absent using Code E.

1.9 Exclusion Templates

Model exclusion letters have been amended as a consequence of the New Exclusion Guidance published in July 2017 and the inception of Together for Children (TFC). If schools wish to use or refer to these templates when excluding a pupil, they have been uploaded onto the School's Information Management System (SIMS). For those of you who have not got SIMS, I have arranged that these model letters are uploaded onto the TFC website. It is expected this will be available at the start of the new term.

2. CENTRAL PROVISIONS PANEL

The Central Provisions Panel (CPP) considers referrals to TFC locally commissioned alternative educational provisions and through a transparent process allocates places to such provisions. A transparent, fair and impartial referral process is adhered to. Educational provisions cater for pupils who are experiencing difficulties managing mainstream school. It is the responsibility of the School or a Medical Consultant (in the case of hospital tuition), to submit a CPP Referral. The CPP proformas for alternative provisions and home/hospital tuition can be obtained from the Inclusion and Access Officer and will be available on the TFC website at the start of 2017/18. The CPP meets fortnightly and referrals must be submitted one week prior to the panel meeting. See Appendix 2 - Meetings and deadline schedule.

Educational provisions include;

- *Key Stage 1 Pupil Referral Unit Placements; - Part-time and full-time*
- *Key Stage 2 and 3 Link School Placements – Tudor Grove Centre*
- *Key Stage 4 Link School Placements – Pallion Centre*

- *Returners Placements – based at Thornhill School*
- *Home and/or Hospital Tuition*

For further information please contact the Inclusion and Access Officer.

3. **MANAGED MOVES**

There are a number of schools in Sunderland who have participated in managed moves over the last few years. A managed move is a managed transfer of a child from one school to another, which consists of a formal agreement between the child's parent/carer, the Headteachers of both the home school and the proposed receiving school and of course the child.

A managed move is a strategy that is used in response to where a child is displaying challenging behaviours that could lead towards a permanent exclusion. A managed move would take place if Headteachers from both the referring and receiving school, parent/carer and child have agreed that it is in the pupil's best interest to remain in a mainstream school and be given a 'fresh start'.

Parent/Carer information is available on the TFC website and the Managed move form, including parent/carer agreement can be obtained from the Inclusion and Access Officer.

The Parent/Carer agreement form has been slightly amended in accordance with the Sunderland Fair Access/Managed Moves/In Year Transfer Process and Protocols April 2015. As requested by schools, a form has also been designed to provide the receiving school with some background information on a pupil that the receiving school may require prior to the managed move commencing.

The managed move protocols can also be downloaded from the TFC website.

4. **CHILDREN MISSING OUT ON EDUCATION (CMOOE)**

As the result of a survey carried out by Ofsted, *Pupils missing out on education November 2013*, when carrying out inspections, Her Majesty's Inspectors will ask for detailed and specific data on school-age children, for whom the local authority is responsible, but who are not engaging in full-time education. All Local Authorities have a statutory duty to arrange suitable full-time education¹ for children of compulsory school age at school, or otherwise for children and young people who do not attend school in the usual way². Children included on this template will be those children that schools currently have on roll and who are not receiving their full-time entitlement at the school's main base.

In Sunderland, primary and secondary schools and academies complete a template on a termly basis and forward to the Together for Children, Inclusion and Access Officer. All information sent between the local authority and schools that contain individual pupil data is now sent as encrypted files with '7-Zip' software (Sunderland City Council's standard encryption software). Therefore, please ensure returned templates are encrypted and in line with the Council's current practices.

CMOOE templates will be sent to all schools in the first week of the new academic year of 2017/18. Templates should be completed and returned to michelle.burlinson@togetherforchildren.org.uk

CMOOE is different to children missing in education (CME). Please refer all CME to Business Support – CME, Early Help Team.

5. **IN YEAR FAIR ACCESS**

The Fair Access Protocol, for Sunderland, was produced and agreed by Headteachers in April 2015. Each Council must have a Fair Access Protocol agreed with the majority of schools in the area. The purpose of Fair Access Protocols is to ensure that – outside the normal admissions round – unplaced, especially the most vulnerable, are found and offered a place quickly, so that the amount of time any child is out of school is kept to a minimum. Every local authority is required to have in place a Fair Access Protocol that has been developed in partnership with local schools.

See DFE advised was published in November 2012, [Fair access protocols in school admissions - Publications - GOV.UK](#).

It is expected that these protocols will be updated during 2017/18. The current protocols can be downloaded from the TFC website.

¹ 'Suitable education' in relation to a child or young person means efficient education suitable to his/her age, ability and aptitude and to any special educational needs he or she may have

² 'Usual way' refers to the provision attended by the vast majority of children and young people of compulsory school age in England

Some general points to consider;

- The operation of the local Fair Access Protocol is outside the arrangements of the co-ordinated admissions scheme and is triggered when the parent/carer of an eligible child had not secured a school place under the In-Year Admissions procedures.
- While the Fair Access Protocol is a means of securing places for 'hard to place' children it does not mean that an application from a 'hard to place' child should automatically be referred to the Fair Access Protocol. A parent/carer still has the right to apply for a place at any school as an in-year admission and is entitled to an appeal if they are not offered that place.
- Sunderland's Fair Access Protocol considers the list of children that should be included in a Fair Access Protocol as stated in the School Admissions Code as well as additional children;
 - *Children from the criminal justice system or Pupil Referral Unit who need to be reintegrated into mainstream education*
 - *Children who have been out of education for two months or more,*
 - *Children of Gypsies, Roma, Travellers, refugees and asylum seekers.*
 - *Children who are homeless*
 - *Children with unsupportive family backgrounds for whom a place has not been sought.*
 - *Children who are carers;*
 - *Children with Special Education Needs (SEN), disabilities or medical conditions that do not have an Education, Health and Care Plan*
 - *Children in year 11 who have moved into the authority.*
 - *Children who are permanently excluded, including those moved into the authority (MLA)*
 - *Children leaving custody*
 - *Children who have been withdrawn from schools by their parents/carers, following a number of fixed term exclusions, due to social or behavioural difficulties or additional educational needs, and are unable to find another place*
 - *Children whose parents have been unable to find them a school place after moving into the area or moving around the City*
 - *Children without a school place and with a history of serious attendance problems. **This must have included previous involvement with the L.A. attendance team.***
 - *Children for whom all options to sustain their existing school place have been exhausted and for those where managed moves have not met their needs but whose parents still wish to pursue the option of a new school place*
 - *Unsupported transfer requests between Sunderland Schools where an appeal has not been successful.*
 - *Children with significant challenging behaviour. e.g. a high number of previous exclusions and/or accessing alternative provision (but without a statement)*
- The Fair Access Protocol does not apply to a looked after child, a previously looked after child or a child with an Education, Health and Care Plan naming a school. Any child who meets the above criteria must be admitted as part of a school's own admissions process.

CONTACT DETAILS

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APPENDIX 1 - EXCLUSION CODES AND DESRIPTORS

Exclusion Code	Exclusion Reason	Description
BU	Bullying	Verbal Physical Homophobic bullying Cyber bullying
DM	Damage includes damage to school or personal property belonging to any member of the school community	Arson Graffiti Vandalism
DA	Drug and alcohol related	Alcohol abuse Drug dealing Inappropriate use of prescribed drugs Possession of illegal drugs Smoking Substance abuse
DB	Persistent disruptive behaviour	Challenging behaviour Disobedience Persistent violation of school rules
PA	Physical assault against adult	Obstruction and jostling Violent behaviour Wounding
PP	Physical assault against pupil	Fighting Obstruction and jostling Violent behaviour Wounding
RA	Racist abuse	Derogatory racist statements Racist bullying Racist graffiti Racist taunting and harassment Swearing that can be attributed to racist characteristics
SM	Sexual misconduct	Lewd behaviour Sexual abuse Sexual assault Sexual bullying Sexual graffiti Sexual harassment
TH	Theft	Selling and dealing in stolen property Stealing from local shops on a school outing Stealing personal property (adult or pupil) Stealing school property
VA	Verbal abuse/threatening behaviour against adult	Aggressive behaviour Carrying an offensive weapon Homophobic abuse and harassment Swearing Threatened violence Verbal intimidation
VP	Verbal abuse/threatening behaviour against pupil	Aggressive behaviour Carrying an offensive weapon Homophobic abuse and harassment Swearing Threatened violence Verbal intimidation