



Exclusion Policy

October 2021

This Policy will be reviewed annually by the Admissions Committee, or sooner in the event of a change in legislation.

Signed

Head Teacher:

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Date:

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This Policy is based on the following statutory guidance from the Department for Education (DfE): [Exclusion from maintained schools, academies and pupil referral units in England](#), which contains clear details of how the school, governors and the Local Authority must act in the event of a child being excluded. It describes the arrangements that St Michael's C of E Primary School follows regarding the suspension and permanent exclusion of children. Suspension is where a child is temporarily excluded from school. Permanent exclusion is where a child is expelled from school. *In this Policy the term exclusion is used in reference to both suspension and permanent exclusion.* School will be guided by advice and support from Oxfordshire County Council's Exclusion and Reintegration Team.

St Michael's expectations for children's behaviour is set out in the school's Behaviour Policy. The school is committed to creating an environment in which every member of the school community can thrive. Our school Christian values of Love, Determination, Responsibility, Respect, Kindness, Friendship and Honesty are the foundation on which we build our community and these guide our relationships with each other. We believe that strong, caring relationships are essential in establishing and maintaining high standards of behaviour in school.

The Decision to Exclude

Only in very exceptional circumstances will a decision be made to exclude a child from school and this can only be on disciplinary grounds, for example where there has been a serious breach or persistent breaches of the school's behaviour policy and the pupil remaining in school will seriously harm their own or others' education or welfare. Exclusion is never in the best interests of the child. Our aim will always be to provide the support a child needs to manage their behaviour successfully and exclusion will only be used as a very last resort.

The decision to exclude can only be made by the head teacher (or the teacher carrying out the head teacher's function in their absence). The head teacher must, without delay, notify the governing board and the local authority of:

- any permanent exclusion (including where a fixed-period exclusion is followed by a decision to permanently exclude the pupil)
- any exclusion which would result in the pupil being excluded for a total of more than five school days (or more than ten lunchtimes) in a term
- any exclusion which would result in the pupil missing a national curriculum test.

Exclusion may be for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or a permanent exclusion. An exclusion does not have to be for a continuous period and can be for part of a day.

Legal Considerations for Exclusion

In making the decision to exclude the head teacher must take into account the following legal considerations:

1. The law does not allow for extending a fixed-period exclusion or 'converting' a fixed-period exclusion into 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.
2. The behaviour of a pupil outside school can be considered grounds for an exclusion.
3. The head teacher may withdraw an exclusion that has not been reviewed by the governing board.
4. 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 on Human Rights and the Equality Act 2010); rational; reasonable; fair; and proportionate.

5. The head teacher must take account of their legal duty of care when sending a pupil home following an exclusion.
6. When establishing the facts in relation to an exclusion decision the head teacher 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 head teacher should accept that something happened if it is more likely that it happened than that it did not happen.
7. Under the Equality Act 2010 (the Equality Act), schools must not discriminate against, harass or victimise pupils because of: sex; race; disability; religion or belief; sexual orientation; pregnancy/maternity; or gender reassignment. For disabled children, this includes a duty to make reasonable adjustments to policies and practices and the provision of auxiliary aids.
8. In carrying out their functions, the public sector equality duty means schools must also have due regard to the need to:
 - eliminate discrimination, harassment, victimisation, 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; and
 - foster good relations between people who share a protected characteristic and people who do not share it.
9. These duties need to be complied with 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, needs, or low participation affecting one group, where this can be shown to be a proportionate way of dealing with such issues
10. The head teacher and governing board must comply with their statutory duties in relation to SEN when administering the exclusion process. This includes having regard to the SEND Code of Practice
11. It is unlawful to exclude 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, such as to attend a reintegration meeting. However, a pupil who repeatedly disobeys their teachers' academic instructions could, be subject to exclusion.
12. 'Informal' or 'unofficial' exclusions, such as sending a pupil home 'to cool off', are unlawful, regardless of whether they occur with the agreement of parents or carers. Any exclusion of a pupil, even for short periods of time, must be formally recorded.
13. Maintained schools have the power to direct a pupil off-site for education to improve their behaviour. A pupil at any type of school 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 and the admission authority of the school. However, the threat of exclusion must never be used to influence parents to remove their child from the school.

Permanent exclusion

Permanent exclusion is an extremely serious step to take. The head teacher will normally only consider such action if:

- the pupil presents a significant health and safety risk to themselves and/or others or has been responsible for a single event that presents a serious threat to the health and safety of children and the school community; and
- the pupil has been offered a full range of services and strategies designed to maintain their inclusion in school; and
- there is evidence that previous plans and strategies have been consistently applied but brought about no significant improvement in the behaviour of the pupil.

Notifying parents of the decision to exclude

When a decision to exclude has been made, parents will be notified without delay about the period of the exclusion and the reason(s) for it. Parents will be invited to meet with the head teacher, which will allow them the opportunity to ask any initial questions or raise concerns.

Parents will be provided with the following information in writing:

- the period of a fixed-period exclusion or, for a permanent exclusion, the fact that it is permanent
- parents' right to make representations about the exclusion to the governing body and how the pupil may be involved in this
- how any representations should be made
- where there is a legal requirement for the governing board to consider the exclusion, that parents have a right to attend a meeting, to be represented at that meeting (at their own expense) and to bring a friend.
- the days on which they must ensure that the pupil is not present in a public place at any time during school hours. These days would be the first five school days of an exclusion (or until the start date of any alternative provision or the end of the exclusion where this is earlier). Any parent who fails to comply with this duty without reasonable justification commits an offence and may be given a fixed penalty notice or be prosecuted.
- what arrangements have been made to enable the pupil to continue their education prior to the start of any alternative provision or the pupil's return to school
- sources of free and impartial information (see Parents Guide to Exclusion, Appendix A)

Alternative Educational Provision

For a fixed-period exclusion of more than five school days, the governing body must arrange suitable full-time education for the child. This provision must begin no later than the sixth school day of the exclusion. Where a child receives consecutive fixed-period exclusions, these are regarded as a cumulative period of exclusion for the purposes of this duty. This means that if a child has more than five consecutive school days of exclusion, then education must be arranged for the sixth school day of exclusion, regardless of whether this is as a result of one fixed-period or more than one fixed-period exclusion.

For permanent exclusions, the local authority must arrange suitable full-time education for the pupil to begin no later than the sixth school day of the exclusion.

Where a pupil has an EHC plan, the local authority may need to review the plan or reassess the child's needs, in consultation with parents, with a view to identifying a new placement.

Parents' Right to Challenge an Exclusion

Parents have the right to make their case about the exclusion of their child to the governing body.

For fixed-period exclusions, unless the exclusion takes a child's total number of school days of exclusion past five in that term, the governing body must consider any case made by parents, but it cannot make the school reinstate the child and is not required to meet the parents.

For all permanent exclusions, the governing body must consider, within 15 school days of being told about the exclusion, whether the excluded child should be reinstated. This is the same for fixed-period exclusions where the child will miss more than 15 days in one term, or will miss a national curriculum test.

For a fixed-period exclusion that brings a child's total excluded days to more than five but under 15 the governing body must consider reinstatement within 50 school days if the parent asks it to do this.

If the governing body decides not to reinstate the child who has been permanently excluded, parents can request an independent review panel to review the governing board's decision.

Governing Body Responsibilities

The Governors of St Michael's C of E Primary School will carry out their duties in respect to exclusion as set out in paragraphs 45 to 86 of the statutory guidance [Exclusion from maintained schools, academies and pupil referral units in England](#), which include:

- The governing body's and local authority's duties to arrange education for excluded pupils
- The governing body's duty to consider an exclusion
- The governing body's duty to notify people after its consideration of reinstatement
- The governing body's duty to remove a permanently excluded pupil's name from the school register

Appendix A

Parent/Carer Guide on Exclusion

Disclaimer

This non-statutory document is not replacing the statutory guidance on exclusion and is intended only to support parents' understanding of the exclusion process. The exclusion legislation applies to maintained schools; pupil referral units (PRUs); and academies/free schools - other than 16-19 academies. It applies to all pupils at these schools, including those who are above or below compulsory school age, for example where a school also has a nursery or a sixth form. It does not apply to fee-paying independent schools, stand-alone nurseries, stand-alone sixth form colleges and other post-16 provision, such as Further Education colleges. These have their own exclusion arrangements.

Glossary

The term '**must**' refers to what head teachers/governing boards/academy trusts/local authorities and parents are required to do by law.

The term '**should**' refers to recommendations for good practice as mentioned in the exclusions guidance.

In this document and in the exclusion guidance, '**parents**' refers to parent(s)/legal guardian(s)/foster carer(s) of pupils under 18, as well as to pupils over 18, and the term 'governing board' includes the governing body of a maintained school, the management committee of a PRU and the academy trust of an academy.

Fixed-period exclusion: when a pupil is barred from the school for a fixed amount of time (including exclusions during lunchtime).

Permanent exclusion: when a pupil is permanently barred from the school premises.

Alternative provision: This refers to the education arrangements made for excluded pupils to continue to have a suitable, full-time education whilst they are excluded from school or cannot attend school for another reason. In some circumstances, alternative provision can be used where a child has not been excluded, including alongside mainstream or special education, or for a placement to address poor behaviour.

Reasons for exclusion

For what reasons can a school exclude my child?

There is no list of set behaviours for which a pupil can and cannot be excluded, and the decision to exclude lies with the head teacher. Head teachers can only exclude a pupil for a disciplinary reason (e.g. because their behaviour violates the school's behaviour policy). They cannot, for example, exclude a pupil for academic performance/ability, or simply because they have additional needs or a disability that the school feels it is unable to meet. A head teacher can exclude for behaviour outside of school, or for repeatedly disobeying academic instructions.

Can the school send my child to be educated elsewhere?

Schools have the power to send a pupil to another education provider at a different location to improve their behaviour without the parents having to agree. A school can also transfer a pupil to another school – a process called a ‘managed move’ - if they have the agreement of everyone involved, including the parents and the admission authority for the new school. Schools cannot force a parent to remove their child permanently from the school or to keep their child out of school for any period of time without formally excluding. The threat of exclusion must never be used to influence parents to remove their child from the school.

Can a school ask me to collect my child/send my child home early without following the formal exclusions process?

‘Informal’ or ‘unofficial’ exclusions, such as sending pupils home ‘to cool off’, are not allowed, even if they are with the agreement of parents. Any exclusion of a pupil, even for short periods of time, must follow the formal process including being formally recorded (see below). Any fixed-period exclusion must have a stated end date.

Exclusion process

What happens when my child is excluded?

Please go to section 2 entitled [‘What happens when your child is excluded’](#) on the gov.uk website.

What are the legal obligations on a school when excluding a pupil?

When a head teacher excludes a pupil, they must without delay let parents know the type of exclusion and the reason(s) for it. They must also, without delay, provide parents with the following information in writing:

- the reason(s) for the exclusion
- the length of the exclusion
- the parents’ right to put forward their case about the exclusion to the governing board, how they should go about doing this and how the pupil can be involved
- when relevant, what alternative provision will be provided from the sixth day of a fixed-period exclusion.

Is there a limit to the number of times my child can be excluded? Yes. A pupil cannot be excluded for more than 45 school days in one school year. This means they cannot have one fixed-period exclusion of 46 school days or more; and also they cannot have lots of shorter fixed-period exclusions that add up to more than 45 school days. This is true even if these exclusions have been given in different schools. Lunchtime exclusions - where pupils are excluded from school over the lunch period because this is when their behaviour is a problem - are counted as half a day.

Scrutiny of the exclusion

Can I question the decision to exclude my child?

Parents have the right to make their case about the exclusion of their child to the governing board.

For fixed-period exclusions, unless the exclusion takes a pupil’s total number of school days of exclusion past five in that term, the governing board must consider any case made by parents, but it cannot make the school reinstate the pupil and is not required to meet the parents.

For all permanent exclusions, the governing board must consider, within 15 school days of being told about the exclusion, whether the excluded pupil should be reinstated. This is the same for fixed-period exclusions where the pupil will miss more than 15 days in one term, or will miss a public examination (e.g. a GCSE) or a national curriculum test (e.g. a key stage 2 test taken at the end of primary school).

For a fixed-period exclusion that brings a pupil’s total excluded days to more than five but under 15 the governing board must consider reinstatement within 50 school days if the parent asks it to do this.

If the governing board decides not to reinstate the pupil who has been permanently excluded, parents can request an independent review panel to review the governing board's decision.

What can I do if I feel my child is being discriminated against in the exclusion process, for example because he/she has a disability?

Schools have a duty under the Equality Act 2010 not to discriminate against pupils on the basis of protected characteristics, such as disability or race, including in all stages of the exclusion process. Parents can raise this issue during the exclusion consideration meeting with the governing board.

If the governing board decides not to reinstate the pupil who has been permanently excluded, parents can request an independent review panel to review the governing board's decision.

When making their request parents can ask for a Special Educational Needs (SEN) expert to attend the hearing to advise the panel on how SEN might be relevant to the exclusion. Parents can request this even if their child has not been officially recognised as having SEN.

If a parent believes that their child has been discriminated against in the exclusion process because of a disability, then they may also make a claim to the First-tier Tribunal (Special Educational Needs and Disability) within six months of the exclusion: www.tribunals.gov.uk/Tribunals/Firsttier/firsttier.htm. The Tribunal can consider claims about permanent and fixed-period exclusions. For permanent exclusions, this can be done instead of, or in addition to, an independent review panel.

If the parent believes that a permanent or fixed period exclusion occurred as a result of discrimination other than in relation to disability (e.g. in relation to race) they can make a claim to the County Court.

Where can I get independent advice on my options regarding the exclusion?

There are a number of organisations that provide free information, support and advice to parents on exclusion matters:

- Coram Children's Legal Centre can be contacted on 0345 345 4345 or through http://www.childrenslegalcentre.com/index.php?page=education_legal_practice.
- ACE education runs a limited advice line service on 0300 0115 142 on Monday to Wednesday from 10 am to 1 pm during term time. Information can be found on the website: <http://www.ace-ed.org.uk/>.
- The National Autistic Society (Schools Exclusion Service (England)) can be contacted on 0808 800 4002 or through: <http://www.autism.org.uk/services/helplines/school-exclusions.aspx>
- Independent Parental Special Education Advice <http://www.ipsea.org.uk/> You may also wish to access the following sources of advice from the Department for Education:
 - Departmental advice on setting the behaviour policy <https://www.gov.uk/government/publications/behaviour-and-discipline-in-schools-60>
 - The Department's guidance to schools on exclusion <https://www.gov.uk/government/publications/school-exclusion>.
 - 'School discipline and exclusions' and 'Complaint about a school or childminder': <https://www.gov.uk/school-discipline-exclusions/exclusions> and <https://www.gov.uk/complain-about-school>.

Arrangements for my child after exclusion

Will my child still receive an education?

Schools should take reasonable steps to set work for pupils during the first five days of a fixed-period exclusion. From the sixth day of an exclusion, suitable full-time education must be arranged for pupils of compulsory school age (primary and secondary school age), except for Year 11 pupils (final year of secondary school) whose final exams have passed. In the case of a fixed-period exclusion of more than five school days, it is the duty of the school to arrange this education, unless the school is a PRU (in which case the local authority should make arrangements).

If a parent wishes to raise a concern about lack of, or the quality of, education arranged during a fixed-period exclusion (and their child is still of compulsory school age), they may follow the school's official complaints procedure.

In the case of a permanent exclusion, arranging suitable full-time education is the duty of the local authority for the area where the pupil lives.

If a parent wishes to raise a concern about lack of, or the quality of, education following a permanent exclusion (and their child is still of compulsory school age), parents should complain to the local authority where they live. If parents are unsure about which local authority they need to speak to, they should ask the school for advice.

Does my child still have a right to attend their exams or national curriculum tests when excluded?

This is a decision for the school. Neither the school nor the local authority is legally required to arrange for an excluded pupil to take a public examination or national curriculum test that occurs during the exclusion, although some may choose to arrange for this, either on school premises or elsewhere. Where a parent has concerns about their child missing a public examination or national curriculum test, they should raise these with the school.

What are my duties as a parent when my child has been excluded?

For the first five school days of any exclusion, parents must ensure that their child of compulsory school age is not in a public place during school hours without very good reason. Parents must also ensure that their child attends any new full-time education provided from the sixth day of exclusion (unless they have arranged suitable alternative education themselves).