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Trafford Alternative Education Provision

Exclusions and Suspension Policy

[2022]



Trafford Alternative Education Provision



Our Mission Statement:

Trafford Alternative Education Provision is committed to providing....

A 21st Century education that promotes the academic, emotional and social development of our students. Our aim is to create a holistic, nurturing and inspiring environment where students are supported and encouraged to take charge of their lives, their learning and their decisions. Every student will have an understanding of their personal journey, challenges and future opportunities. All will be encouraged to become independent thinkers and learn to value and respect others thus enabling them to meet the challenges of the wider world. In partnership with parents, carers, schools and outside agencies we will provide students and staff with a positive and supportive learning experience.

We will achieve our vision by constantly thinking about the bigger picture, working as one team, valuing our staff and their continual development and by frequently reviewing, debating and developing the curriculum.



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Policy Title:	Exclusion Policy		
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Document control

Version control/History

Name	Description	Date
Linda Thompson	Version 1	March 2022
Linda Thompson	Version 2 New government guidelines	August 2022

Approvals

Name	Position	Date
Management Committee Members		March 2022

Links to

Policy
<ul style="list-style-type: none">• Behaviour Policy• SEN Policy and information report

1. Aims

Our school aims to ensure that:

- The exclusions process is applied fairly and consistently
- The exclusions process is understood by governors, staff, parents and pupils
- Pupils in school are safe and happy
- Pupils do not become NEET (not in education, employment or training)

2. Legislation and statutory guidance

2. Legislation and statutory guidance

This policy is based on statutory guidance from the Department for Education: [Exclusion from maintained schools, academies and pupil referral units \(PRUs\) in England](#).

It is based on the following legislation, which outline schools' powers to exclude pupils:

Section 52 of the [Education Act 2002](#), as amended by the [Education Act 2011](#)

[The School Discipline \(Pupil Exclusions and Reviews\) \(England\) Regulations 2012](#)

In addition, the policy is based on:

Part 7, chapter 2 of the [Education and Inspections Act 2006](#), which looks at parental responsibility for excluded pupils

Section 579 of the [Education Act 1996](#), which defines 'school day'

The [Education \(Provision of Full-Time Education for Excluded Pupils\) \(England\) Regulations 2007](#), as amended by [The Education \(Provision of Full-Time Education for Excluded Pupils\) \(England\) \(Amendment\) Regulations 2014](#)

3. The decision to exclude

Only the, or acting, can exclude a pupil from school. A permanent exclusion will be taken as a last resort.

Our school is aware that off-rolling is unlawful. Ofsted defines off-rolling as:

“...the practice of removing a pupil from the school roll without a formal, permanent exclusion or by encouraging a parent to remove their child from the school roll, when the removal is primarily in the interests of the school rather than in the best interests of the pupil.”

We are committed to following all statutory exclusions procedures to ensure that every child receives an education in a safe and caring environment.

A decision to exclude a pupil will be taken only:

- In response to serious or persistent breaches of the school's behaviour policy, **and**
- If allowing the pupil to remain in school would seriously harm the education or welfare of others

Before deciding whether to exclude a pupil, either permanently or for a suspension, the headteacher will:

- Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked
- Allow the pupil to give their version of events
- Consider if the pupil has special educational needs (SEND)

If the headteacher cancels/rescinds a suspension or permanent exclusion that has not been reviewed by the governing board, they should now notify the parents, governing board and LA and, if relevant, the social worker and the virtual school head

4. Definition

For the purposes of suspensions, school day is defined as any day on which there is a school session. Therefore, INSET or staff training days do not count as a school day.

5. Roles and Responsibilities

5.1 The Executive headteacher

Informing parents

The Executive headteacher will immediately provide the following information, in writing, to the parents of an excluded pupil:

- The reason(s) for the exclusion
- The length of a suspension or, for a permanent exclusion, the fact that it is permanent
- Information about parents' right to make representations about the exclusion to the governing board 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 meet to consider the reinstatement of a pupil, and that parents have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend

The headteacher will also notify parents by the end of the afternoon session on the day their child is excluded that for the first 5 school days of an exclusion, or until the start date of any alternative provision where this is earlier, parents are legally required to ensure that their child is not present in a public place during school hours without a good reason. Parents may be given a fixed penalty notice or prosecuted if they fail to do this.

If alternative provision is being arranged, the following information will be included when notifying parents of an exclusion:

- The start date for any provision of full-time education that has been arranged

- The start and finish times of any such provision, including the times for morning and afternoon sessions, where relevant
- The address at which the provision will take place
- Any information required by the pupil to identify the person they should report to on the first day

Where this information on alternative provision is not reasonably ascertainable by the end of the afternoon session, it may be provided in a subsequent notice, but it will be provided no later than 48 hours before the provision is due to start. The only exception to this is where alternative provision is to be provided before the sixth day of an exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent.

Informing the governing board and local authority

The headteacher will immediately notify the governing board and the local authority (LA) also (as appropriate) the pupil's social worker, the virtual school head and the local authority (LA) of:

- A permanent exclusion, including when a suspension is followed by a decision to permanently exclude a pupil
- Exclusions which would result in the pupil being excluded for more than 5 school days (or more than 10 lunchtimes) in a term
- Exclusions which would result in the pupil missing a public examination

For a permanent exclusion, if the pupil lives outside the LA in which the school is located, the headteacher will also immediately inform the pupil's 'home authority' of the exclusion and the reason(s) for it without delay.

For all other exclusions, the headteacher will notify the governing board and LA once a term.

5.2 The governing board

Responsibilities regarding exclusions are delegated to the Management Committee consisting of at least 3 governors.

The Management Committee has a duty to consider the reinstatement of an excluded pupil (see section 6).

Provision does not have to be arranged for pupils in the final year of compulsory education who do not have any further public examinations to sit.

5.3 The LA

For permanent exclusions, the LA is responsible for arranging suitable full-time education to begin no later than the sixth day of the exclusion

6. Considering the reinstatement of a pupil

The Management Committee will consider the reinstatement of an excluded pupil within 15 school days of receiving the notice of the exclusion if:

The exclusion is permanent

- It is a suspension which would bring the pupil's total number of school days of exclusion to more than 15 in a term
- It would result in a pupil missing a public examination or national curriculum test

If requested to do so by parents, Management Committee will consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion if the pupil would be excluded from school for more than 5 school days, but less than 15, in a single term.

Where an exclusion would result in a pupil missing a public examination, Management Committee will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the chair of the governing board (or the vice-chair where the chair is unable to make this consideration) will consider the exclusion independently and decide whether or not to reinstate the pupil.

The Management Committee can either:

- Decline to reinstate the pupil, or
- Direct the reinstatement of the pupil immediately, or on a particular date

In reaching a decision, Management Committee will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the headteacher followed their legal duties. They will decide whether or not a fact is true 'on the balance of probabilities', which differs from the criminal standard of 'beyond reasonable doubt', as well as any evidence that was presented in relation to the decision to exclude.

Minutes will be taken of the meeting, and a record of evidence considered kept. The outcome will also be recorded on the pupil's educational record.

The Management Committee will notify, in writing, the headteacher, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the Management Committee decision will also include the following:

The fact that it is permanent

Notice of parents' right to ask for the decision to be reviewed by an independent review panel, and:

- The date by which an application for an independent review must be made
- The name and address to whom an application for a review should be submitted
- That any application should set out the grounds on which it is being made and that, where appropriate, reference to how the pupil's SEN are considered to be relevant to the exclusion
- That, regardless of whether the excluded pupil has recognised SEN, parents have a right to require the local authority to appoint an SEN expert to attend the review
- Details of the role of the SEN expert and that there would be no cost to parents for this appointment
- That parents must make clear if they wish for an SEN expert to be appointed in any application for a review
- That parents may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents may also bring a friend to the review

That if parents believe that the exclusion has occurred as a result of discrimination, they 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. A claim of discrimination made under these routes should be lodged within 6 months of the date on which the discrimination is alleged to have taken place

7. An independent Review

If parents apply for an independent review, the local authority will arrange for an independent panel to review the decision of the governing board not to reinstate a permanently excluded pupil.

Applications for an independent review must be made within 15 school days of notice being given to the parents by Management Committee of its decision to not reinstate a pupil.

A panel of 3 or 5 members will be constituted with representatives from each of the categories below. Where a 5-member panel is constituted, 2 members will come from the school governor's category and 2 members will come from the headteacher category.

- A lay member to chair the panel who has not worked in any school in a paid capacity, disregarding any experience as a school governor or volunteer
- School governors who have served as a governor for at least 12 consecutive months in the last 5 years, provided they have not been teachers or headteachers during this time
- Headteachers or individuals who have been a headteacher within the last 5 years

A person may not serve as a member of a review panel if they:

- Are a member/director of the local authority or governing board of the excluding school
- Are the headteacher of the excluding school, or have held this position in the last 5 years
- Are an employee of the local authority or the governing board, of the excluding school (unless they are employed as a headteacher at another school)
- Have, or at any time have had, any connection with the local authority school, governing board, parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality
- Have not had the required training within the last 2 years (see appendix 1 for what training must cover)

A clerk will be appointed to the panel.

The independent panel will decide one of the following:

- Uphold the governing board's decision
- Recommend that the governing board reconsiders reinstatement
- Quash the governing board's decision and direct that they reconsider reinstatement (only when the decision is judged to be flawed)

The panel's decision can be decided by a majority vote. In the case of a tied decision, the chair has the casting vote.

8. School Register

A pupil's name will be removed from the school admissions register if:

- 15 school days have passed since the parents were notified of the exclusion panel's decision to not reinstate the pupil and no application has been made for an independent review panel, or
- The parents have stated in writing that they will not be applying for an independent review panel

Where an application for an independent review has been made, the governing board will wait until that review has concluded before removing a pupil's name from the register.

Where alternative provision has been made for an excluded pupil and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.

Where excluded pupils are not attending alternative provision, code E (absent) will be used.

9. Suspension

A suspension is, where a pupil is temporarily removed from the school, is an essential behaviour Management tool that should be set out within a school's behaviour policy. A pupil may be suspended for one or more fixed periods (up to a maximum of 45 school days in a single academic year).

A suspension does not have to be for a continuous period. A suspension may be used to provide a clear signal of what is unacceptable behaviour as part of our school's behaviour policy and show a pupil that their current behaviour is putting them at risk of permanent exclusion. Where suspensions are becoming a regular occurrence for a pupil, TAEP will consider whether suspension alone is an effective sanction for the pupil and whether additional strategies need to be put in place to address behaviour.

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

Returning from a suspension

The following measures may be implemented when a pupil returns from a suspension

- Agreeing a behaviour contract
- Putting a pupil 'on report'
- Internal isolation
- Restorative Practice Meeting

10. Monitoring arrangements

TAEP monitors the number of exclusions every term and reports back to the Management Committee. We also liaise with the local authority to ensure suitable full-time education for excluded pupils.

This policy will be reviewed by the headteacher every year. At every review, the policy will be approved by the Management Committee.

- There are new rules on who the headteacher **must** notify if a pupil is suspended **or** permanently excluded. In addition to notifying parents, they must now, in both cases, also notify the governing board and (as appropriate) the pupil's social worker, the virtual school head and the local authority (LA)
- If the headteacher cancels/rescinds a suspension or permanent exclusion that has not been reviewed by the governing board, they should now notify the parents, governing board and LA and, if relevant, the social worker and the virtual school head

Pupil Discipline Committee

Protocol for the Governing Board to Review A Permanent Exclusion/Suspension over 15 Days in A School Term or Suspensions (At Request of Parents)

Remit

1. The Governing Board delegates authority to the Pupil Discipline Committee for meeting the following obligations:
 - 1.1 To consider and decide on reinstatement for suspensions of 5 days or less when representations are received from parents (or where the Board direct review is necessary).
 - 1.2 To consider and decide on reinstatement in the case of suspensions totalling more than 5 but not more than 15 school days in one term when representations are received from parents (or where the Board direct review is necessary). *Meeting to be held between 6th and 50th school day after receiving notice of the exclusion.*
 - 1.3 To consider and decide on reinstatement of a suspended or Permanently excluded pupil within 15 days if;
 - the exclusion is permanent
 - the suspension would result in the pupil being out of School for more than 15 school days in one term or
 - it would result in the pupil missing a public examination or national curriculum test.
 - 1.4 To reconsider a decision not to reinstate following a direction of recommendation by an Independent Review Panel.
 - 1.5 To ensure that the decision to exclude is in line with the DfE guidance.
 - 1.6 To review the School Behaviour and Discipline Policy to ensure any decision to exclude/suspend is in line with the Policy.

Constitution of Pupil Discipline Committee & Process

2. The Committee will be constituted of 3 Governors who are uncompromised.

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2.1 If no Governors are available, a Governor from another local School may be utilised. Similarly, this Board agrees that Governors will, when possible, serve on PDC's for other local Schools/Academies if needed.

3. A pack of documents to support the Headteacher/Principal's decision must be sent, at least 5 days in advance of the meeting, to:

- Governors who will form the Committee
- Parents/Carer (and where appropriate Social Worker and Virtual School Head (VSH))
- Clerk
- LA Rep

(LA has the right to attend at Maintained Schools)

4. **In advance of the meeting the School will:**

4.1 Confirm date and time of the meeting(s) and advise the Clerk (Trust GS).

4.2 Source 3 Governors (who are uncompromised and objective, not staff) to constitute the Committee.

Governors should be asked to convene 30-45 mins in advance of the Parents joining for a pre-meeting briefing with the Clerk, this is to re-cap the remit of the panel, clarify procedure and guidance and elect a Chair for the Committee/meeting.

4.3* Invite the LA (if appropriate). If the pupil lives outside of the borough, invite the LA for the School and LA for the student.

4.4* Advise the Parent(s) and student of their right to attend and make representations. Advise them of their right to be accompanied by a friend or representative.

**Except for meetings to reconsider after an IRP, where there is no obligation to invite other Parties.*

4.5 Advise Parents (if appropriate Social Worker/VSH) of:

- a) the date, time and venue for the meeting (remembering to ask Parent(s) to arrive later than the Governors).
- b) the opportunity (but no obligation) to send documents/information at least 6 days in advance of the meeting so it can be circulated with the School's information 5 days in advance of the meeting.

4.5 Prepare the documentation (ensuring that a copy of the letter informing Parents of the Exclusion and the reason is included).

- 4.6 Send copies of documents to all Parties at least 5-days in advance of the meeting. *(Trust GS recommend use of GovernorHub, School will need to post copy to Parents).*
 - 4.7 Ensure a suitable room is available for the meeting to accommodate all attendees. All parties must be kept separate in advance of the meeting so Rooms will need to be made available accordingly.
5. **Trust GS (Clerk) will:**
- 5.1 Provide Agenda for the meetings (to be distributed with packs).
 - 5.2 Provide guidance and a pre-meeting briefing with the Committee.
 - 5.3 Meet/discuss procedure with the Head in advance of the meeting.
 - 5.4 Greet the Parent(s) in advance of the meeting, explain the role of the Clerk and the procedure for the meeting.
 - 5.5 Attend meeting to Clerk (take minutes, advise on procedure, and minute the Committees decision then draft the decision letter to be sent next School day).
 - 5.6 Provide Zoom details & Protocol for online meetings (if meetings are to be online).

PROCEDURE FOR THE MEETING

6. The Board has agreed a Protocol for Governance meetings to take place online when deemed necessary. With the agreement of all Parties, PDC meetings may be held online (using the Clerk's secure Zoom platform or TEAMS).
7. The Committee members will meet 30 mins in advance of the meeting for a Briefing with the Clerk to recap on the remit, clarify procedure and appoint a Chair for the meeting.
8. An independent Clerk will be provided by Trust Governor Services. The Clerk plays no part in the decision making but will take minutes to record the proceedings, offer advice on procedure and minute the decision of the Committee.
9. The meeting is a **private and confidential** meeting of a Committee of the Governing Board. All parties are advised that there should be no correspondence between Parties in advance of the meeting. Any queries should be directed to the Clerk at Trust GS.
10. Governors may have access to documents via the secure portal and password protected files may be emailed to Parents. Where possible, printed copies of documents will be sent to all parties by the School. At the end of the meeting, any documents used by Governors will be confidentially destroyed. A master copy of all documents will be retained by the School.
11. All parties will be invited to attend the meeting at an appropriate venue OR will be sent Zoom or TEAMS details for the meeting.

12. Parties will be invited to attend/join at appropriate times. The Clerk will greet all Parties in advance of the meeting, ensure all documents have been received and all Parties are clear regarding the procedure.

If the meeting is held online, the Clerk will assign all Parties to separate Breakout Rooms.

14. When all parties are ready, all parties join the meeting together. If an adjournment is necessary, the Clerk will assign each Party to private rooms or Breakout Rooms.
15. At the start of the meeting, the Chair (or Clerk) will explain how the meeting will be run, including the agenda and the use of any relevant Zoom/TEAMS functionality.
16. Statutory procedure, Governance regulations and protocols apply. All meetings must be arranged in consultation with the Clerk.
17. All participants will receive instructions regarding how to access the meeting including where they can access support if they experience difficulty.
18. The Committee will abide by normal rules, procedures, and code of conduct for Governors including giving particular regard to the duty to maintain confidentiality and with due regard to the school's policies relating to data protection and the appropriate use of ICT.
19. Minutes of the meeting will be taken by the Clerk and the meeting should not be recorded by any participant without the approval of the Governing Board (Committee).
20. Chairing of the meeting proceeds as usual. The meeting must remain quorate for any vote to be valid. If any party is unable to participate in the meeting due to technical issues, the meeting will adjourn briefly to address the problem. If it is not possible/practical to continue, the meeting will be adjourned by the Chair and reconvene at the earliest opportunity.
21. Trust GS, the Clerking Service, provide advice on appropriate governance procedure and regulations which continue to apply.
22. Following the meeting, the Headteacher/Principal, Parents and LA Reps will leave the meeting. The Clerk will remain with the Committee to minute the decision.
23. The decision of the Committee will be communicated to the Parents by letter sent the next working day after the meeting.

Acceptance and adoption of this procedures should be recorded in the Minutes of a Board meeting.

For assistance or advice contact Trust GS 0161 348 7188 or clerk@trustgs.co.uk

Appendix 1: Independent review panel training

The local authority must ensure that all members of an independent review panel and clerks have received training within the 2 years prior to the date of the review.

Training must have covered:

- The requirements of the primary legislation, regulations and statutory guidance governing exclusions, which would include an understanding of how the principles applicable in an application for judicial review relate to the panel's decision making
- The need for the panel to observe procedural fairness and the rules of natural justice
- The role of the chair and the clerk of a review panel
- The duties of headteachers, governing boards and the panel under the Equality Act 2010
- The effect of section 6 of the Human Rights Act 1998 (acts of public authorities unlawful if not compatible with certain human rights) and the need to act in a manner compatible with human rights protected by that Act

