



**Transforming
Futures**
TRUST

Suspension and Exclusion Policy

Policy Information	
Policy Owner	Headteachers
Issue Version	2.0
Approving Committee	Education and Outcomes Committee
Adopted Date	March 2023
Review Cycle	Bi-Annual
Last Review Date	March 2023
Next Review Date	March 2025

Adoption of the Policy

This Policy has been adopted and reviewed by the Trustees of Transforming Futures Trust

Signed
(Chair of Trust)

Date: 28.03.2023



Version Control Amendments

Version No	Date	Summary of Changes
2.0	March 2023	Suspension replaced Fixed Term Exclusion

Introduction

This Policy sets out the Framework for how Suspensions and Exclusions are managed across the Trust.

The aim to ensure that:

- i The suspension and exclusion processes are applied fairly and consistently.
- ii The suspension and exclusion processes are understood by Trustees, staff, parents and pupils.
- iii Pupils in the Trust are safe and happy.
- iv Pupils do not become NEET (not in education, employment or training).

Legislation

The principal legislation to which this policy relates is:

- i. The Education Act 2002, as amended by the Education Act 2011;
- ii. Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement; Guidance for maintained schools, academies, and pupil referral units in England; July 2022
- iii. Behaviour in Schools; Advice for headteachers and school staff; July 2022
- iv. The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012;
- v. The Children and Family Act 2014; inc the SEND code of practice: 0 to 25 years;
- vi. Mental health and behaviour in schools guidance; 2018
- vii. Keeping Children Safe in Education, 2022
- viii. The Education and Inspections Act 2006;
- ix. Education (Educational Provision for Improving Behaviour) Regulations 2010; and
- x. The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007.

Definition of suspension and exclusion

The recently published statutory guidance: 'Behaviour in schools: Advice for headteachers and school staff' September 2022 and related: 'Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement: Guidance for maintained schools, academies, and pupil referral units in England' September 2022 redefine the language used for exclusions. This policy reflects the change

in language.

Terminology

Use of the term **suspend or suspension** in this policy is a reference to what is described in the legislation as an exclusion for a fixed period.

Use of the term **exclusion** in this policy is a reference to a permanent exclusion.

Decision to Suspend or Exclude a Pupil

The Trust will endeavour to avoid suspension or exclusion wherever possible. A decision to suspend a pupil is taken only in response to very serious breaches of the Trust behaviour policy, including persistent disruptive behaviour, where these are not serious enough to merit permanent exclusion nor minor enough for other sanctions to be appropriate.

Suspensions are likely to be the minimum sanction for a malicious allegation against a member of staff. Repeated malicious allegations are likely to result in Permanent Exclusion.

Pupils may be excluded permanently or suspended up to a maximum of 45 days in one academic year.

Suspensions do not have to be continuous. Suspensions cannot be retrospectively converted into a permanent exclusion. In exceptional cases, usually where further evidence has come to light, a further suspension 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 suspension.

Unofficial exclusions, are unlawful even with parental consent.

A decision to exclude a pupil permanently will only be taken:

- i. in response to a serious breach, or persistent breaches, of the school's behaviour policy; and
- ii. where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

The school will follow the latest DfE guidance regarding suspensions and exclusions from schools to ensure that students are treated fairly and not discriminated against.

Statutory Guidance: Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1089688/Suspension_and_Permanent_Exclusion_guidance_July_2022.pdf

The decision on whether to suspend or exclude is for the head teacher in the individual school within the Trust to take. However, where practical, head teachers will give pupils an opportunity to present their case, which should be recorded in writing, before taking the decision to exclude.

Before deciding whether to suspend or exclude a pupil, the Head teacher will:

- i consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked

- ii allow the pupil to give their version of events
- iii consider if the pupil has special educational needs (SEN)
- iv consider if the pupil is at risk of CSE/CE/CP concerns.

How these contributing factors have been considered will be recorded as part of the suspension or exclusion report held on the pupil's file.

Headteachers can rescind a suspension or permanent exclusion before it has been reviewed by the Trust. If this occurs, parents, the governing board and the local authority will still be notified, and if relevant, the social worker and Virtual School Head.

Early Intervention

Early intervention to address underlying causes of disruptive behaviour will include an assessment of whether appropriate provision is in place to support any SEND or disability that a pupil may have. Head teachers will also consider the use of a multi-agency assessment for pupils who demonstrate persistent disruptive behaviour. Such assessments may pick up unidentified special educational needs but the scope of the assessment could go further, for example, by seeking to identify mental health or family problems. All early intervention work needs to be appropriately evidenced on the pupil's file.

Where a pupil has received multiple suspensions, or is approaching the legal limit of 45 school days in an academic year, head teachers will consider whether exclusion is providing an effective sanction. As most pupils in the Trust have an Education, Health and Care plan, it is also likely that repeated suspensions will lead to the calling of an emergency annual review to ensure that all possible planning has taken place to meet the child's need and to review the appropriateness of a placement. Headteachers will ensure that the placing local authority's 0-25 team are aware of challenges in a placement as early as possible. The 0-25 team will be asked to review the support available for pupils with Education, Health and Care plans and should assist the school in ensuring appropriate alternative provision is accessed where necessary.

Informing Parents and the Local Authority

Whenever a head teacher suspends or excludes a pupil they will, without delay, notify parents (and if a pupil has a social worker, or if a pupil is looked-after, the headteacher must now, also without delay after their decision, notify the social worker and/or VSH, as applicable) of the period of the suspension or if the decision is to permanently exclude, and the reasons for it.

They will also, without delay, provide parents with the following information in writing:

- I. the reasons for the suspension or exclusion;
- II. the period of a suspension or, for a permanent exclusion, the fact that it is permanent;
- III. that for the first five school days of a suspension or 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 reasonable justification, and that parents may be given a fixed penalty notice or prosecuted if they fail to do so.

- IV. parents' right to make representations about the suspension or exclusion to the Trust through the appropriate mechanism and how the pupil may be involved in this;
- V. how any representations should be made; and
- VI. where there is a legal requirement for Trustees to consider the suspension or exclusion, that parents have a right to attend a meeting, be represented at this meeting (at their own expense) and to bring a friend.

The school will take reasonable steps to set work for the pupil during the first five days of the exclusion.

Alternative provision will be arranged for exclusions of more than five days, arranged by the Trust for fixed term exclusions and arranged by the Local Authority for permanent exclusions.

When headteachers suspend or permanently exclude a pupil, they must also notify the local authority, without delay. This must be done regardless of the length of a suspension. For all suspensions and permanent exclusions, if the pupil lives outside the local authority in which the school is located, the head teacher must also advise the pupil's 'home authority' of the exclusion without delay.

Informing Trust Board

The head teacher must, without delay, notify their link Trustee for safeguarding, the CEO of the Trust and the chair of the education and outcomes committee of:

- I. any permanent exclusion;
- II. any suspension for more than five school days (or more than ten lunchtimes) in a term; and
- III. any suspension or permanent exclusion which would result in the pupil missing a public examination or national curriculum test.

Notifications must include the reasons for the exclusion and the duration of any fixed period exclusion. Notifications will typically be made on the day of the suspension or exclusion by email. The headteacher must include all statistical information about any suspension, exclusion or pupil taken off role in the termly Headteacher's report. This will include a commentary on any evaluation, patterns and decisions to exclude or suspend that were rescinded.

The requirements on Trustees to consider an exclusion

Trustees must consider the reinstatement of an excluded pupil within 15 school days if:

- I. the exclusion is permanent;
- II. a suspension would bring the pupil's total number of school days missed to more than 15 in a term; or
- III. it would result in a pupil missing a public examination or statutory test.

If requested to do so by the parents, Trustees must consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion, or suspension if a pupil would be excluded from school for more than five school days, but not more than 15, in a single term.

Where an exclusion or suspension would result in a pupil missing a public examination or national curriculum test there is a further requirement for Trustees, so far as is reasonably practicable, to consider the suspension or exclusion before the date of the examination or test. If this is not practicable, the chair of Trustees may consider the exclusion independently and decide whether or not to reinstate the pupil.

In the case of a suspension which does not bring the pupil's total number of days of exclusion to more than five in a term, Trustees must consider any representations made by parents, but it cannot direct reinstatement and is not required to arrange a meeting with parents.

The process Trustees follows when considering an exclusion will follow the statutory guidance: Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement; Guidance for maintained schools, academies, and pupil referral units in England; July 2022:

The requirements on Trustees in preparing for the consideration of an exclusion decision

The Trustee Panel will comprise a minimum of three Trustees and the CEO or an appropriate delegate. They should have had sufficient training to be able to effectively challenge the Headteacher's decision and ensure all necessary evidence is considered appropriately. One member of the Panel should be elected to chair the hearing.

Prior to the hearing, the school will also provide a body of evidence which should contain the following reports/statements, circulated to all parties at least 5 days prior to the hearing, which should include but not limited to:

- a log of behaviour incidents and associated sanctions
- the letter from the headteacher to parent/s or carers confirming exclusion and stating the reason/s for exclusion
- written evidence where the headteacher has given the pupil an opportunity to present their case
- written evidence of contributory factors that have been taken into account
- written evidence of early intervention that has taken place
- details of any previous exclusions or suspensions
- previous correspondence between school, parents and other agencies (if involved)
- staff and any other witness statements regarding the incident/s which led to the permanent exclusion (The school will anonymise or summarise student statements to protect the identity of those providing statements.)
- reports of counselling undertaken
- details of the support provided to the pupil prior to the decision to exclude
- a statement from the SENDCo detailing the pupil's needs and the school's adjustments to meet these needs, and any additional reports from other professionals such as Educational Psychologists
- a copy of the school's policies on behaviour and up-to-date DfE guidelines
- a record of the pupil's attendance/absence
- a copy of any external or other reports by other agencies e.g. social care, EWO, that may be appropriate

- a report of action taken against other pupils who may have been involved in the incident/s.

Before the packs are sent out, they must be checked and signed off by the headteacher confirming that:

- the information is fully complete
- only information associated with the exclusion or suspension has been included
- all sensitive and personal information about other individuals has been blacked out and independently checked by another person.

The Trustee panel should:

- not discuss the exclusion with any party outside of the meeting;
- allow parents and pupils to be accompanied by a friend or representative (where a pupil under 18 is to be invited as a witness, the Trustee panel should first seek parental consent and invite the parents to accompany their child to the meeting);
- have regard to their duty to make reasonable adjustments for people who use the school and consider what reasonable adjustments should be made to support the attendance and contribution of parties at the meeting (for example where a parent or pupil has a disability in relation to mobility or communication that impacts upon their ability to attend the meeting or to make representations); and
- identify the steps they will take to enable and encourage the excluded pupil to attend the meeting and speak on his / her own behalf (such as providing accessible information or allowing them to bring a friend), taking into account the pupil's age and understanding.

The requirements on the Trustee panel when considering the reinstatement of an excluded pupil

Where the Trustee panel is legally required to consider an exclusion or suspension, they must consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and people working at the school. In addition the panel need to consider whether the decision to exclude the pupil was lawful, reasonable and procedurally fair, and whether the headteacher followed their legal duties.

The Trustee panel must also consider any representations made by:

- parents;
- the head teacher; and
- a parent may invite a representative of the local authority to attend a meeting of the Trustee panel as an observer; that representative may only make representations with the Trustee panel's consent.

10.3 A typical structure for the hearing is set out below:

- Introductions and initial questions
- Headteacher's report and presentation of school evidence
- Questions of the Headteacher from the panel members
- Questions of the Headteacher from the others represented at the hearing
- Presentation from the parents/carers
- Questions of parents/carers from the panel
- Questions of the parents or carers from others represented at the hearing
- A short final statement from the Headteacher
- A short final statement from the parents or carers
- The hearing will then be suspended to allow the Trustees to make a decision.
- Once a decision has been agreed, the Trustees will reconvene the hearing and inform all parties of their decision.
- At the Trustees Review Hearing the Panel will decide whether to uphold the exclusion or direct reinstatement of the student immediately or on a particular date.
- Should further information be required to make the decision the Panel may adjourn the meeting to a later date agreed by all parties.

When establishing the facts in relation to an exclusion decision the Trustee panel 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'. In the light of their consideration, the Trustee panel can either:

- uphold an exclusion or suspension; or
- direct reinstatement of the pupil immediately or on a particular date.

Where reinstatement is not practical because, for example, the pupil has already returned to school following the expiry of a suspension, or the parents make clear they do not want their child reinstated, the Trustee panel must, in any event, consider whether the head teacher's decision to exclude the child was justified based on the evidence

The requirements on a Trustee panel to notify people after their consideration of an exclusion

Where legally required to consider an exclusion or suspension, the Trustee panel must notify parents, the head teacher and the local authority of their decision, and the reasons for their decision, in writing and without delay.

Where the pupil resides in a different local authority from the one that maintains the school, the Trustee panel must also inform the pupil's 'home authority'.

In the case of a permanent exclusion the Trustee panel's notification must also include the information below.

- I. The fact that it is permanent.
- II. Notice of parents' right to ask for the decision to be reviewed by an independent review panel and the following information:

- a. the date by which an application for a review must be made (i.e. 15 school days from the date on which notice in writing of the Trustee panel's decision was given to parents;
- b. the name and address to whom an application for a review (and any written evidence) should be submitted;
- c. that any application should set out the grounds on which it is being made and that, where appropriate, this should include a reference to how the pupil's special educational needs are considered to be relevant to the exclusion;
- d. that, regardless of whether the excluded pupil has recognised special educational needs, parents have a right to require the Academy Trust to appoint a SEND expert to attend the review;
- e. details of the role of the SEND expert and that there would be no cost to parents for this appointment;
- f. that parents must make clear if they wish for a SEND expert to be appointed in any application for a review;
- g. that parents may, at their own expense, appoint someone to make written and / or oral representations to the panel and that parents may also bring a friend to the review.

Independent Review Panel

An appeal must be submitted to the Local Authority. Parents will be given the contact details by the headteacher of the school.

If applied for by parents within the legal time frame, the local authority will arrange for an independent review panel hearing to review the decision of a Trustee panel not to reinstate a permanently excluded pupil.

The legal time frame for an application is:

- a. within 15 school days of notice being given to the parents by the Trustee panel of their decision to uphold a permanent exclusion; or
- b. where an application has not been made within this time frame, within 15 school days of the final determination of a claim of discrimination under the Equality Act 2010 in relation to the exclusion.

Any application made outside of the legal time frame must be rejected by the Local Authority.

The Local Authority must not delay or postpone arranging an independent review panel where parents also make a claim of discrimination in relation to the exclusion to the First-tier Tribunal (Special Educational Needs and Disability) or the County Court.

The Local Authority must take reasonable steps to identify a date for the review that all parties are able to attend. However, the review must begin within 15 school days of the day

on which the School received the parent's application for a review (panels have the power to adjourn a hearing if required).

The Local Authority must arrange a venue for hearing the review, which must be in private unless the independent review panel directs otherwise and must take all reasonable steps to ensure the venue for the review is appropriate, accessible to the parties, and has a suitable area for the parties to wait separately from the panel before the review.

Whether or not the school recognises whether a pupil has SEND needs, all parents have the right to request the presence of a SEND expert at the meeting of the independent review panel.

The independent review panel does not have the right to reinstate a permanently excluded pupil:

- I. Where the panel finds that the Trustee panel decision is flawed on judicial grounds it may direct that the decision is reconsidered – if this recommendation is made, the Trustee panel must reconvene within 10 school days of being notified.
- II. Where the panel finds that the Trustee panel decision is flawed on judicial grounds and the Trustee panel does not overturn the decision, then the independent review panel will be expected to order that the Trust makes an additional payment of £4,000 towards the cost of alternative provision.

Appointing independent review panel members

The Local Authority must constitute the independent review panel with either three or five members (as decided by the Academy Trust representing each of the three categories below. A five-member independent review panel must be constituted with two members from each of the categories of school Trustees and head teachers

- I. A lay member to chair the panel who has not worked in any school in a paid capacity, disregarding any experience as a school Trustee or volunteer.
- II. School Trustees who have served as a Trustee for at least 12 consecutive months in the last five years, provided they have not been teachers or head teachers during this time.
- III. Head teachers or individuals who have been a head teacher within the last five years.

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

- I. are a member or director of the Academy Trust or governing body of the excluding school;
- II. are the head teacher of the excluding school or anyone who has held this position in the last five years;
- III. are an employee of the Academy Trust or the governing body, of the excluding school (unless they are employed as a head teacher at another school);
- IV. have, or at any time have had, any connection with the Academy Trust; school; parents or pupil; or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality (though an individual

- must not be taken to have such a connection simply because they are a head teacher at another school); or
- V. have not had the required training within the last two years
- VI. where possible, panel members who are Trustees or head teachers should reflect the phase of education (primary / secondary) and type of school from which the pupil was excluded.

In order to meet their duties within the statutory time frame, the Local Authority will identify a number of eligible individuals in each of the different categories required to constitute an independent review panel in advance of an application for a review.

Ensuring that independent review panel members and clerks are trained

The Local Authority must ensure that all independent review panel members and clerks have received training within the two years prior to the date of the review. This training must have covered:

- I. 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);
- II. the need for the panel to observe procedural fairness and the rules of natural justice;
- III. the role of the chair of an independent review panel;
- IV. the role of the clerk of an independent review panel;
- V. the duties of head teachers, governing bodies and the panel under the Equality Act 2010; and
- VI. 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.

School registers

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

- i. 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
- ii. the parents have stated in writing that they will not be applying for an independent review panel.
- iii. the local authority's 0-25 team agree a removal from roll on the basis of a change in placement for pupils with an Education, Health and Care plan.

Where an application for an independent review has been made, the Trustee panel 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.

Appendix 1 - A summary of the Trustee panel's duties to review the headteacher's exclusion or suspension decision

