



Tudor Grange Academies Trust

Robert Smyth Academy Suspensions and Permanent Exclusions Policy

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13.12.21	1.0	New document
25.08.22	2.0	Updated in line with new guidance on suspension and permanent exclusion of pupils
04.01.23	2.1	Correction to paragraph 3.4 – remove suspension as a decision under these criteria
24.08.23	3.0	Update to reflect DfE guidance from 1.9.23 'Headteacher' changed to 'Principal' throughout; 'school' changed to 'academy' where appropriate. 'Governing body' clarified as either 'trust board' or 'local governing body' to reflect the Scheme of Delegation.

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1 Aims

1.1 Our academy aims to ensure that:

- The suspensions and permanent exclusions process is applied fairly and consistently
- The suspensions and permanent 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

- 2.1 This policy is based on statutory guidance from the Department for Education: [School suspensions and permanent exclusions - GOV.UK](#)
- 2.2 It is based on the following legislation, which outline schools' powers to exclude pupils:
- Section 51A of the [Education Act 2002](#), as amended by the [Education Act 2011](#)
 - [The School Discipline \(Pupil Exclusions and Reviews\) \(England\) Regulations 2012](#)
 - Sections 64-68 of the [School Standards and Framework Act 1998](#)
- 2.3 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](#)
- 2.4 This policy complies with our funding agreement and articles of association.

3 The decision to suspend or exclude

- 3.1 Only the principal, or acting principal, can suspend or permanently exclude a pupil from school. A permanent exclusion will be taken as a last resort.
- 3.2 Our academy 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.”
- 3.3 We are committed to following all statutory exclusions procedures to ensure that every child receives an education in a safe and caring environment.
- 3.4 A decision to permanently exclude a pupil will be taken only:
- In response to serious or persistent breaches of the academy's behaviour policy, **and**
 - If allowing the pupil to remain in school would seriously harm the education or welfare of others
- 3.5 Before deciding whether to suspend or permanently exclude a pupil, the principal will:
- Consider all the relevant facts and evidence, including whether the incident(s) leading to the suspension/exclusion were provoked
 - Allow the pupil to give their version of events
 - Consider if the pupil has special educational needs (SEN)
- 3.6 The principal may cancel a suspension or permanent exclusion that has not been reviewed by the local governing body. This is a process known as withdrawing/rescinding a suspension or permanent exclusion. The principal may also cancel a suspension or a permanent exclusion which has not yet started.

- 3.7 If a suspension or permanent exclusion is withdrawn/rescinded, parents (if the pupil is under 18) or excluded pupils (if they are aged 18 years or older) , the local governing body and the local authority should be notified of this and advised why the suspension/exclusion was cancelled. The social worker and the Virtual School Head (VSH) (if involved) should also be notified.
- 3.8 Any days spent out of school before a cancellation will count towards a pupil's total number of days of suspension in a school year.

4 Definition

- 4.1 For the purposes of suspensions and exclusions, 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 principal

Informing parents

- 5.1.1 The principal will immediately provide the following information, in writing, to the parents (if the pupil is under 18) or excluded pupils (if they are aged 18 years or older) and without delay, notify, if relevant, the social worker and VSH (in the case of looked-after pupils), of a suspended or excluded pupil:
- The reason(s) for the suspension or permanent 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 suspension or permanent exclusion to the local governing body and how the pupil may be involved in this
 - Information about parents' (or an excluded pupil if they are 18 years or older) right to make a request to hold the meeting via the use of remote access and how and to whom to make this request
 - Where there is a legal requirement for the local governing body 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
- 5.1.2 The principal will also notify parents by the end of the afternoon session on the day their child is suspended or 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.
- 5.1.3 If alternative provision is being arranged, the following information will be included when notifying parents of a suspension or 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
- 5.1.4 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 a suspension or exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent.
- 5.1.5 If the pupil is 18 years of age, the pupil should be involved in this process, not their parents/carers.

Informing the local governing body and local authority

- 5.1.6 The principal will immediately notify the local governing body and the local authority (LA) of all suspensions or permanent exclusions, regardless of the length of a suspension. Along with suspensions which would result in the pupil missing a public examination.
- 5.1.7 For a permanent exclusion, if the pupil lives outside the LA in which the academy is located, the principal will also immediately inform the pupil's 'home authority' of the exclusion and the reason(s) for it without delay.

5.2 The local governing body

- 5.2.1 Responsibilities regarding suspensions and permanent exclusions is delegated by the trust board to the local governing body of the academy.
- 5.2.2 The local governing body may convene a panel of local governors to carry out these responsibilities, the Student Disciplinary Committee. This panel can be smaller than 3 governors.
- 5.2.3 To be eligible to sit on any panel considering the reinstatement of a suspended or permanently excluded pupil, Local Governors/Trustees who are parents of children at the same academy must **not** know the family of the excluded/ suspended pupil, or have any association with them. Local Governors/Trustees must **not** have a child in the same year group of the excluded/ suspended pupil, or have a child on the waiting list for that year group.
- 5.2.4 The Student Disciplinary Committee has a duty to consider the reinstatement of a suspended or permanently excluded pupil (see section 6).
- 5.2.5 Within 14 days of receipt of a request, the local governing body will provide the secretary of state with information about any suspensions and permanent exclusions in the last 12 months.
- 5.2.6 For a suspension of more than 5 school days, the local governing body will arrange suitable full-time education for the pupil. This provision will begin no later than the sixth day of the suspension.
- 5.2.7 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.

- 5.2.8 The local governing body can require a pupil to attend another educational setting to improve their behaviour, this includes managed moves
<https://www.legislation.gov.uk/ukpga/2002/32/section/29A>

5.3 The Local Authority

- 5.3.1 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

- 6.1 The Student Disciplinary Committee will consider the reinstatement of a suspended or permanently excluded pupil within 15 school days of receiving the notice of the suspension or 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
- 6.2 If requested to do so by parents, the Student Disciplinary Committee will consider the reinstatement of a suspended pupil within 50 school days of receiving notice of the exclusion if the pupil would be suspended from school for more than 5 school days, but less than 15, in a single term.
- 6.3 Where a suspension or permanent exclusion would result in a pupil missing a public examination, Student Disciplinary Committee will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the Student Disciplinary Committee will consider the suspension or permanent exclusion and decide whether or not to reinstate the pupil.
- 6.4 Student Disciplinary Committee can either:
- Decline to reinstate the pupil, or
 - Direct the reinstatement of the pupil immediately, or on a particular date
- 6.5 In reaching a decision, Student Disciplinary Committee will consider whether the suspension or permanent exclusion was lawful, reasonable and procedurally fair and whether the principal 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.
- 6.6 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.
- 6.7 The Student Disciplinary Committee notify, in writing, the principal, parents (or the pupil, if they are 18 years old or above), and the LA of its decision, along with reasons for its decision, without delay.
- 6.8 Where an exclusion is permanent, the Student Disciplinary 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 Tudor Grange Academies Trust 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

- 7.1 If parents apply for an independent review, the Trust will arrange for an independent panel to review the decision of the local governing body not to reinstate a permanently excluded pupil.
- 7.2 Applications for an independent review must be made within 15 school days of notice being given to the parents by the Student Disciplinary Committee of its decision to not reinstate a pupil.
- 7.3 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 governors category and 2 members will come from the headteacher/principal 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/principals during this time
 - Headteachers/principals or individuals who have been a headteacher/principal within the last 5 years
- 7.4 The panel will meet in person, however parents (if the pupil is under 18) or excluded pupils (if they are aged 18 years or older) can request a meeting to be held via the use of remote access.
- 7.5 A person may not serve as a member of a review panel if they:

- Are a member or director of the Trust, or the local governing body of the excluding academy
- Are the principal of the excluding academy, or have held this position in the last 5 years
- Are an employee of the Trust, or the local governing body, of the excluding academy (unless they are employed as a headteacher/principal at another school)
- Have, or at any time have had, any connection with the Trust, trust board, academy, local governing body, 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)

7.6 A clerk will be appointed to the panel.

7.7 The independent panel will decide one of the following:

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

7.8 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 registers

8.1 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

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

8.3 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.

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

9 Returning from a suspension

9.1 Following a suspension, a re-integration meeting will be held involving the pupil, parents, a member of senior staff and other staff, where appropriate.

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

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

10 Monitoring arrangements

- 10.1 Danielle Paterson, SLT responsible for behaviour, monitors the number of suspensions and permanent exclusions every term and reports back to the Trust's Executive Board Education and to the principal and local governors, and to the Education Performance Committee. They also liaise with the local authority to ensure suitable full-time education for suspended and excluded pupils.
- 10.2 This policy will be reviewed by the Executive Board Education every year. At every review, the policy will be shared with the Education Performance Committee of the trust board.

11 Links with other policies

- 11.1 This exclusions policy is linked to our
- Behaviour policy
 - SEN policy and information report

APPENDIX 1 Independent Review Panel training

The Trust 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

APPENDIX 2 Department for Education guidance on Suspensions and Permanent Exclusions (July 2022)

This appendix references the Department for Education '[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). It details what has changed in the July 2022 update to the guidance.

This guidance has been updated to reflect the government's ambition to create high standards of behaviour in schools so that children and young people are protected from disruption and can learn and thrive in a calm, safe, and supportive environment. This guidance provides schools and other bodies involved in this process with information so that they can continue to use suspensions and permanent exclusions appropriately. In addition, specific changes to the legislation governing the disciplinary school suspension and permanent exclusion process have been made and so changes have been made to the guidance to reflect this. Permanent exclusions will sometimes be necessary as a last resort to maintain this environment.

The following is a list of updates:

- Headteachers may cancel an exclusion that has not been reviewed by the governing board. This practice is sometimes known as withdrawing/rescinding a suspension or permanent exclusion. If this occurs, parents, the governing board and the local authority should be notified, and if relevant, the social worker and VSH. Further information of other actions that should take place after an exclusion is cancelled is set out in paragraph 13.
- When headteachers suspend or permanently exclude a pupil they must, without delay, notify parents. Legislative changes mean that 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.
- When headteachers suspend or permanently exclude a pupil, they must also notify the local authority, without delay. Legislative changes mean that this must be done regardless of the length of a suspension.
- Guidance on the role of a social worker and VSH, during governing board meetings and IRP meetings.
- Guidance on managed moves, what they are and how they should be used.
- Clarified guidance on the use of off-site direction¹ as a short-term measure that can be used as part of a school's behaviour management strategy.
- Further guidance on the practice of involving pupils so that any excluded pupil is enabled and encouraged to participate at all stages of the suspension or permanent exclusion process, considering their age and ability to understand.
- Guidance for governing boards to ensure that they review data to consider the level of pupil moves and the characteristics of pupils who have been permanently excluded to ensure the sanction is only used when necessary as a last resort².

¹ [Section 29A Education Act 2002](#). The legal requirements and statutory guidance relating to this power are set out in guidance on alternative provision:

<https://www.gov.uk/government/publications/alternative-provision>

² [Understanding your data: a guide for school governors and academy trustees - GOV.UK \(www.gov.uk\)](#)

Duties under the Education and Inspections Act 2006

Under the Education and Inspections Act 2006, headteachers of maintained schools and pupil referral units must determine measures to be taken³ with a view to:

- promoting, among pupils, self-discipline, and proper regard for authority,
- encouraging good behaviour and respect for others on the part of pupils and, in particular, preventing all forms of bullying among pupils,
- securing that the standard of behaviour of pupils is acceptable,
- securing that pupils complete any tasks reasonably assigned to them in connection with their education, and
- otherwise regulating the conduct of pupils.

Permanent exclusions can be used to help achieve these aims when they are absolutely necessary, as a last resort.

Duties under the Equality Act 2010 and Children and Families Act 2014

Under the Equality Act 2010 (the Equality Act) and the [Equality Act 2010: advice for schools - GOV.UK \(www.gov.uk\)](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/36381/equality-act-2010-advice-for-schools.pdf), 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 any provision, criterion or practice which puts them at a substantial disadvantage, and the provision of auxiliary aids and services. 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 relevant protected characteristic and people who do not; and
- foster good relations between people who share a relevant protected characteristic and people who do not share it.

The 'relevant protected characteristics' in this context are the characteristics mentioned above. Age is also a relevant protected characteristic, but not when carrying out a function which provides education, benefits, facilities, or services to pupils.

These duties need to be complied with when deciding whether to exclude a pupil. Schools must also ensure that any provision, criterion, or practice does not discriminate against pupils by unfairly increasing their risk of exclusion. For example, if reasonable adjustments have not been made for a pupil with a disability that can manifest itself in breaches of school rules if needs are not met, a decision to exclude may be discriminatory.

The governing board must also comply with their statutory duties in relation to pupils with Special Educational Need (SEN) when administering the exclusion process, including (in the case of the

³ [Section 88 of the Education and Inspections Act 2006](#)

governing board of relevant settings⁴) using their 'best endeavours' to ensure the appropriate special educational provision is made for pupils with SEN and (for all settings) having regard to the Special Educational Need and Disability (SEND) Code of Practice⁵.

⁴ The duty under [section 66 of the Children and Families Act 2014](#) applies to certain settings, including mainstream schools, maintained nursery schools, academies, alternative provision academies and pupil referral units.

⁵ [SEND code of practice: 0 to 25 years - GOV.UK \(www.gov.uk\)](#).