



# Pupil Exclusions Policy

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**NB.** 'Trustees' means the Directors referred to in the Trust's Articles of Association

## History of most recent policy changes

Version	Date	Page	Change	Origin of Change e.g. TU request, Change in legislation
V1.0	17.07.2019			First adopted
V2.0	11.01.2021	p. 6	Section 5.1	Section 5.1 on permanent exclusions amended to include Head Teacher discussion with Director for Inclusion and Safeguarding in the decision-making process drawing on their expertise on inclusion to support the school and pupil.
V3.0	28.04.2021	p. 9	Section 9.2	Section 9.2 extended to clarify who can support the pupil discipline committee.
V4.0	13/7/22	Across the policy	Areas involving Discipline committees and review processes. Pre PeX meetings	Changes to governance and application of the legislation
V5.0	19/10/22	Across the policy		Application of legislation and terminology changes

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## 1. Aims

The Tarka Learning Partnership aims to ensure that in all schools:

- The suspensions and permanent exclusions process is applied fairly and consistently according to the statutory guidance on pupil exclusions published by the Department for Education as noted in section 2 below.
- The exclusions process is understood by Trustees, staff, parents and pupils.
- Pupils in school are safe and happy.
- Staff are protected from harm.
- The Behaviour in Schools Guidance (2022) is woven into the school's Behaviour policy which sits alongside this document.

## 2. Legislation and statutory guidance

This policy is based on statutory guidance from the Department for Education: Suspension and Permanent [Exclusion from maintained schools, academies and pupil referral units \(PRUs\) in England, including pupil movement \(2022\)](#).

It is critical this guidance is followed and care taken to abide by the statutory guidance document.

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.
- 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 and Inspections 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](#)
- [Children and Families Act 2014](#)

## 3. Definitions

Suspension – when a pupil is removed from the school for a fixed period. This was previously referred to as a 'fixed-term exclusion'.

Permanent exclusion – when a pupil is removed from the school permanently and taken off the school roll. This is sometimes referred to as an 'exclusion'.

Off-site direction – when a governing board of a maintained school requires a pupil to attend another education setting temporarily, to improve their behavior.

Parent – any person who has parental responsibility and any person who has care of the child.

Managed move – when a pupil is transferred to another school permanently. All parties, including parents and the admission authority for the new school, should consent before a managed move occurs.

## 4. The decision to exclude

1. Only the headteacher (Acting Headteacher or Deputy Headteacher – when the headteacher is unavailable) of a school can suspend or permanently exclude a pupil on disciplinary grounds. A pupil may be suspended for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or permanently excluded.

A permanent exclusion will be taken as a last resort.

Our schools and the Tarka Learning Partnership Board of Trustees 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 the pupil or others such as staff or pupils in the school.

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

- Consider all the relevant facts and evidence, including whether incident(s) leading to the exclusion were provoked.
- Listen to and collate the views of those involved, both staff and pupils, in the incident(s).
- Take the pupil’s views into account, considering these in light of their age and understanding, before deciding to exclude, unless it would not be appropriate to do so. They should inform the pupil about how their views have been factored into any decision made. Where appropriate the pupil should be given support to express their views through an advocate, such as a parent or social worker.
- Consider if the pupil has special educational needs (SEN).
- Consider whether the pupil is especially vulnerable (e.g. the pupil has a social worker, or is a looked-after child (LAC))
- Consider whether all alternative solutions have been explored, such as off-site direction or managed moves.

The headteacher will not reach their decision until they have heard from the pupil, and will inform the pupil of how their views were taken into account when making the decision.

A list (which is not exhaustive) of possible behaviours for consideration of exclusion or suspension are:

- bullying of all types
- verbal abuse to staff and others
- verbal abuse to pupils
- physical abuse to/attack on staff
- physical abuse to/attack on pupils
- racist abuse
- abuse against sexual orientation or gender reassignment
- abuse relating to disability
- indecent behaviour
- damage to property
- carrying, supply and misuse of illegal drugs or other substances
- theft
- serious actual or threatened violence against another pupil or a member of staff
- sexual harassment, sexual abuse or assault
- carrying an offensive weapon
- arson
- unacceptable behaviour which has previously been reported, and for which school sanctions

and other interventions have not been successful in modifying the pupil's behaviour.

## 5. Equality including pupils with special educational needs or a disability (SEND)

### 5.1 Pupils with SEN

Each school's full SEN provision is outlined in the school's **Special Educational Needs Policy and the SEN Information Report**. We work hard to include students who have behavioural, social, emotional and mental health needs or difficulties with elements of social interaction as part of their SEN. The school will try every practical alternative to exclusion, but there may be some cases where it cannot be avoided.

If a permanent exclusion is made, the Head Teacher will use the time between the initial decision and the First Committee's review to see whether a change of circumstances might enable the school to withdraw the exclusion. It may be the case that more support is needed for the pupil, or that it is in the child's best interest that their SEN EHC Plan be changed to name a different school, in which case the school will work with the LA and the child's parents or carers to make the transition as smooth as possible.

### 5.2 Pupils with a disability

If a pupil with a disability is under consideration for exclusion, the Head Teacher will ensure that all other possible options have been tried. To justify excluding a pupil with a disability for a reason related to their disability, there must be material and substantial reason. The erosion of order and discipline in the school may be material and substantial justification, but only if reasonable adjustments have been made for the pupil's disability.

### 5.3 Equality

The Tarka Learning Partnership and all partner schools do not discriminate against any person and our ethos is one of inclusion, equality, and diversity. The TLP and all partners fully comply and support the Equality Act 2010. If any person feels that they have been discriminated against they may make a formal complaint to the school following the process outlined in TLP Complaints Policy.

Where the issue arises in relation to an exclusion, the school will deal with any concerns raised by parents through the consideration of parental representations within the exclusion framework.

## 6. Types of exclusion (model letters and support materials are available from the Tarka Partnership central team)

### 6.1 Permanent exclusion (Known as a PEX)

**If the Head Teacher is considering a permanent exclusion the Head Teacher should first consult the Director for Inclusion and Safeguarding (DIS) and then the CEO of Tarka Learning Partnership before making the decision to discuss the circumstances of the case through the following relevant process: -**

For serious incidents leading to a school's consideration of a permanent exclusion: -

- Contact the Director for Inclusion and Safeguarding (DIS) for the Tarka Learning Partnership at once to discuss the circumstances of the case to permanently exclude or not and where appropriate discuss support for the pupil and family.
- Following discussion with the DIS, contact the CEO who will discuss the case with both the Head Teacher and DIS, before advising the Headteacher in reaching the final decision to permanently exclude or not.

For cases where there is a series of suspensions and to support the pupil and family the Head Teacher should: -

- Contact the Director of Inclusion and Safeguarding well in advance of the possible decision to

permanently exclude.

- The school will draw up the required paperwork (PEX evidence).
- The school will meet with the DOIS and conduct a table top review. A strategic plan will be drawn up to support the pupil.
- The DIS will inform the CEO that the process has taken place.
- If permanent exclusion becomes necessary, the school will discuss the decision to permanently exclude or not with the CEO and DIS.
- Consider holding a formal Pre PEX meeting with the pupil, parents/carers, the LA Inclusion officer, other agencies involved with the family (Virtual school) and a representative of the School Community Board (SCB). This meeting should be minuted and should involve the clear presentation of evidence that the young person is at risk of exclusion and the steps that all who attend the meeting can take to prevent the situation from deteriorating and preventing a move to PEx. [Whilst the involvement of the young person is important there needs to be a clear decision made as to the ability and capacity of the young person to engage in the process and issues being discussed – adaptations should be made to ensure that the process is not harmful but is useful to support understanding and changes in behaviour.]

Permanent exclusion is an extremely serious sanction, and a step taken by the school only as a last resort. In most cases, permanent exclusion will be used only after various alternative strategies have been tried to improve behaviour but have been unsuccessful. There are, however, some situations in which permanent exclusion on the first offence is the only option. These may include:

- serious, actual or threatened violence against another pupil or a member of staff: -
- sexual abuse or assault
- using or carrying or supplying an illegal drug
- carrying an offensive weapon
- arson.

The list is not exhaustive but provides an indication of the severity of the offence which may lead to permanent exclusion.

It may be necessary for the school to involve the Police if the offence warrants it.

All permanent exclusions will be reviewed by a First Committee comprising the Trustees and or representatives (SCB representatives) to ensure that the Head Teacher's decision was lawful, reasonable and fair. This process will be managed by the Headteacher. The Head Teacher can withdraw an exclusion that has not yet been reviewed by the First Committee. If this occurs, the Head Teacher will inform parents, the School Community Board, the Local Authority and, if relevant, the social worker and VSH.

## **6.2 Suspension**

The length of a suspension will be set out by the school at the start of the suspension period. If a pupil is suspended for more than 45 days in one school year, they will be permanently excluded.

A suspension may result from a serious breach, or persistent breaches, of the school's behaviour policy. It may be a first offence or persistent disruptive behaviour that requires a tougher sanction than other sanctions available to the school under the behaviour policy, but does not warrant permanent exclusion.

A suspension may be used to provide a clear signal of what is unacceptable behaviour as part of the school's behaviour policy and show a pupil that their current behaviour is putting them at risk of permanent exclusion.

A permanent exclusion may follow on from a suspension by the Head Teacher if the circumstances warrant it. This will generally be in cases where further evidence comes to light during the school's investigation. In this case, parents or carers will be notified in writing of the decision to permanently exclude the pupil, together with the reasons for doing so.

During suspensions and permanent exclusions, daytime supervision of the child is the responsibility of their parent or guardian for the first 5 days of the suspension period.

Headteachers should take steps to ensure that work is set and marked for pupils during the first 5 school days of a suspension.

A suspended pupil has no automatic right to take a public examination or National Curriculum tests on the school's premises. The TLP CEO, as a representative of the Trustees, in consultation with the Headteacher can decide whether or not to allow the pupil to sit the tests, and this will depend on the seriousness of the reason for suspension.

### **6.3 Lunchtime exclusion**

This is a type of suspension and will not be used as a long-term solution to a behaviour problem. A lunchtime exclusion counts as half a day when calculating total number of days of exclusion.

The school may decide to exclude a pupil from the school premises during the break at lunchtime if their behaviour during this time is very disruptive or dangerous to other pupils and breaches the behaviour policy. Arrangements will be made for parents or carers to collect the excluded pupil and supervise them if their age or vulnerability warrants it. The school will not normally invoke a lunchtime exclusion for any period longer than a week. If the problem persists, alternative strategies will be looked at to deal with managing the pupil's behaviour.

Pupils who are entitled to free school meals will still be given this provision over their period of lunchtime exclusion.

## **7. Definition**

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

## **8. Investigating the circumstances**

Disruptive behaviour or actions that may warrant disciplinary measures will always be investigated before the decision to exclude is made.

Before the decision to exclude is made, the Head Teacher will:

- ensure that the school has undertaken a thorough investigation
- consider all the evidence available
- encourage the pupil to give his or her version of events
- take into account the school's behaviour policy and all other relevant school policies including equal opportunities policy
- find out the circumstances behind the behaviour including provocation, for example in the case of racial or sexual harassment, or bullying
- consult other people as necessary (but not anyone on the governing board or management committee who may later have a role in reviewing the decision)

- keep a written record of discussions, interviews and actions, and retain copies of written records made by other members of staff, ensuring that witness statements are dated and signed if possible.

## 9. Confidentiality

The school will deal with all cases of exclusion and the surrounding circumstances confidentially. Information will be shared only with those who need to know it, and a breach of this may result in disciplinary action.

## 10. Roles and responsibilities

### 10. 1 The Head Teacher

**Informing parents / carer [in the case of Child in the Care of the LA – communication should also be with the social care agencies]**

The Head Teacher will notify parents (and, as applicable the social worker and/or VSH) without delay when they suspend or permanently exclude a pupil. The Head Teacher will provide the following information, in writing, to the parents of an excluded pupil as soon as possible:

- 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.
- Where there is a legal requirement for a First Committee 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 membership of the First Committee will be drawn from Trustees and representatives of the SCB.
- The Head Teacher will inform the DIS and CEO of the Tarka Learning Partnership if the Head Teacher is considering a permanent exclusion to discuss the matter in detail to support the highest quality decision making.

The Head Teacher will also notify by the end of the calendar day 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 day, 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 Trust Central Team and Local Authority**

The Head Teacher will immediately notify the DIS, the CEO of Tarka Learning Partnership and the Local Authority (LA) of a suspension (regardless of length) or permanent exclusion. They should advise if an exclusion 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 Head Teacher will also immediately inform the pupil's 'home authority' of the exclusion and the reason(s) for it without delay.

### **10. 2 The SCB and Trustees**

Responsibilities regarding exclusions is delegated to the First Committee consisting of at least 3 representatives of the SCB and /or Trustees.

The SCB has a duty to consider parents' representations about a suspension or permanent exclusion. It has a duty to consider the reinstatement of a suspended or permanently excluded pupil in certain circumstances.

Within 14 days of receiving a request, the Trustees will provide the secretary of state with information about any suspensions or exclusions within the last 12 months.

It is permissible to move representatives from their own SCB or move Trustees from the Board of Trustees to the committee to support impartiality of decision making, use expertise and/or to ensure quorum for pupil discipline processes.

In liaison with the Clerk to Trustees, each school will identify representatives who are qualified to take part on the First Committee. Representatives will be selected for the committee from this identified list to ensure that representatives are trained and able to accurately support the process. The headteacher will oversee this process.

The First Committee has a duty to consider the reinstatement of an excluded pupil (see section 11).

For a suspension of more than 5 school days, the SCB in conjunction the Headteacher will arrange suitable full-time education for the pupil. This provision will begin no later than the sixth day of the exclusion.

#### **For secondary schools only:**

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.

### **10.3 The Local Authority (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.

### **11. Considering the reinstatement of a pupil by the First Committee.**

The First 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.

If requested to do so by parents, the First 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, the First committee will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the First committee will consider the exclusion and decide whether or not to reinstate the pupil.

The First 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, the First Committee will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the Head Teacher 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 social worker / VSH (as applicable) will be invited to any meeting of the First Committee and IRP about the suspension or permanent exclusion. This is so they can provide advice on how the pupil's background and/or circumstances may have influenced the circumstances of their suspension or permanent exclusion. The social worker should also help ensure safeguarding needs and risks and the pupil's welfare are taken into account.

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

Where an exclusion is permanent, the First 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 IRP to appoint a 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 a 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.

## 12. An independent review

If parents apply for an independent review, the Tarka Learning Partnership will arrange for an independent panel to review the decision of the First Committee 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 the first committee of its decision to not reinstate a pupil **or**, if after this time, within 15 school days of the final determination of a claim of discrimination under the Equality Act 2010 regarding the permanent exclusion.

The Trust will commission an Independent Review Panel (IRP) to review the case in accordance with statutory process.

The independent review panel will decide one of the following:

- Uphold the First Committee's decision.
- Recommend that the First Committee reconsiders reinstatement.
- Quash the First Committee'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.

When an IRP either:

- Recommends that the First Committee reconsiders reinstatement.
- Quashes the First Committee's decision and direct that they reconsider reinstatement

Then a Second Committee should be convened made up of representatives of the SCB and Trustees to reconsider reinstatement based on the evidence from the IRP. These representatives should not have been members of the original First Committee. This process will be coordinated by the Trust.

They will review the case in light of the IRP's report and decide to either:

- Uphold the first committee's decision and not reinstate.
- Direct the Head teacher to reinstate the pupil back onto the school roll.

Parents/ carers and the LA will be informed of the decision within the time frame set by the IRP.

## 13. School registers

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 First Committee 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.

#### 14. Returning from a suspension

Following a suspension, a re-integration meeting will be held involving the pupil, parents, a member of senior staff and other staff, where appropriate. If the parent chooses not to attend, the meeting should continue and the pupil return following that meeting. At this meeting there should be a reintegration strategy drawn up and clearly communicated.

The following measures may be implemented when a pupil returns from a suspension and will be considered on a case by case basis:

- Agreeing a behaviour contract or individual behaviour plan.
- Internal isolation;
- Maintaining regular contact during the suspension or off-site direction and welcoming the pupil back to school;
- Daily contact with a designated pastoral professional in-school;
- Use of a report card with personalised targets leading to personalised rewards;
- Ensuring the pupil follows an equivalent curriculum during their suspension or off-site direction or receives academic support upon return to catch up on any lost progress.

#### 15. Monitoring arrangements

The CEO of Tarka Learning Partnership monitors the number of exclusions every term and reports back to the Board of Trustees. The Head teacher will liaise with the local authority to ensure suitable full-time education for excluded pupils.

The Trust will work with schools to collect data on the following:

- Attendance, permanent exclusions and suspensions
- Use of pupil referral units, off-site directions and managed moves
- Anonymous surveys of staff, pupils, representatives/trustees and other stakeholders on their perceptions and experiences

Tarka Learning Partnership will work with its academies to consider this data, and to analyse whether there are patterns across the Trust, recognising that numbers in any one academy may be too low to allow for meaningful statistical analysis.

Areas that will be considered in this monitoring and analysis will include:

- How effectively and consistently the school's behaviour policy is being implemented
- The school register and absence codes
- Instances where pupils receive repeat suspensions
- Interventions in place to support pupils at risk of suspension or permanent exclusion
- Any variations in the rolling average of permanent exclusions, to understand why this is happening, and to make sure they are only used when necessary
- Timing of moves and permanent exclusions, and whether there are any patterns, including any indications which may highlight where policies or support are not working
- The characteristics of suspended and permanently excluded pupils, and why this is taking place
- Whether the placements of pupils directed off-site into alternative provision are reviewed at sufficient intervals to assure that the education is achieving its objectives and that pupils are benefiting from it
- The cost implications of directing pupils off-site

#### 16. Links with other policies

This exclusions policy is linked to:

- The school's Behaviour policy.
- SEN policy and information report where relevant.
- The Child Protection and Safeguarding policy

## Appendix 1: Review panel training

The Tarka Learning Partnership will ensure where possible that all members of the two committees 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 Head Teachers, governing boards and the panel under the Equality Act 2010.
- The effect of section 10 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.