



# Pupil Exclusions Policy

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**Author/owner: Board of Trustees**

**Review: Annual**

**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.

## Contents

History of most recent policy changes .....	2
1. Aims .....	4
2. Legislation and statutory guidance .....	4
3. The decision to exclude .....	4
4. Equality including pupils with special educational needs or a disability (SEND) .....	5
5. Types of exclusion (model letters and support materials are available from the Tarka Partnership central team) .....	6
6. Definition .....	7
7. Investigating the circumstances .....	7
8. Confidentiality.....	8
9. Roles and responsibilities .....	8
10. Considering the reinstatement of a pupil.....	9
11. An independent review .....	10
12. School registers.....	11
13. Returning from a fixed-term exclusion.....	12
14. Monitoring arrangements .....	12
15. Links with other policies .....	12
Appendix 1: Independent review panel training .....	12

## 1. Aims

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

- The 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, governors, staff, parents and pupils.
- Pupils in school are safe and happy.
- Staff are protected from harm.

## 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 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 52 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

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 Head Teacher, Acting Head Teacher or Deputy Head Teacher (where the Head Teacher is absent or unavailable) can exclude a pupil from a school permanently. A permanent exclusion will be taken as a last resort.

Our schools and the Tarka Learning Partnership Board of Directors 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 fixed period, the Head Teacher 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 (SEN).

A list (which is not exhaustive) of possible behaviours for consideration of exclusion 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
- indecent behaviour
- damage to property
- carrying, supply and misuse of illegal drugs
- carrying, supply and misuse of other substances
- theft
- serious actual or threatened violence against another pupil or a member of staff
- sexual abuse or assault
- supplying an illegal drug
- 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.

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

##### 4.1 Pupils with SEN

Each school's full SEN provision is outlined in our **Special Educational Needs Policy and the SEN Information Report**. We work hard to include students who have behavioural, social 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 LGB'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 statement/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.

##### 4.2 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.

##### 4.3 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 each school's complaints procedure or in the Tarka Learning Partnership complaints policy if the complaint is

against the Trust central team. 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.

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

### **5.1 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 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 (DOIS) 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 DOIS, contact the CEO who will discuss the case with both the Head Teacher and DOIS before reaching the final decision to permanently exclude or not.

For cases where there is a series of fixed term exclusions 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 DOIS 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 DOIS.

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 the LGB to ensure that the Head Teacher's decision was lawful, reasonable and fair. The Head Teacher can withdraw an exclusion that has not yet been reviewed by the LGB.

### **5.2 Fixed-term exclusion**

The length of a fixed-term exclusion will be set out by the school at the start of the exclusion period.

If a pupil is excluded for more than 45 days in one school year, they will be permanently excluded. A fixed-term exclusion 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 permanent exclusion may follow on from a fixed term exclusion 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 fixed-term exclusions and permanent exclusions, daytime supervision of the child is the responsibility of their parent or guardian for the first 5 days of the exclusion period.

An excluded pupil has no automatic right to take a public examination or National Curriculum tests on the school's premises. The LGB can decide whether or not to allow the pupil to sit the tests, and this will depend on the seriousness of the reason for exclusion.

### **5.3 Lunchtime exclusion**

This is a type of fixed-term exclusion 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.

## **6. 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.

## **7. Investigating the circumstances**

Disruptive behaviour or actions that may warrant discipline 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 whether the behaviour may have been provoked, 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.

## 8. 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.

## 9. Roles and responsibilities

### 9.1 The Head Teacher

#### Informing parents

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 fixed-term exclusion 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 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 Head Teacher will inform the 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 parents 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 LGB, the Board of Trustees and Local Authority



The Head Teacher will immediately notify the Local Governing Body (LGB), the CEO of Tarka Learning Partnership and the Local Authority (LA) of:

- A permanent exclusion, including when a fixed-period exclusion is made permanent.
- 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 Head Teacher 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 Head Teacher will notify the Board of Trustees and LGB once a term.

## **9.2 The LGB**

Responsibilities regarding exclusions is delegated to the pupil discipline committee or first committee consisting of at least 3 governors.

It is permissible to move Governors from their Local Governing Body or move Trustees from the Board of Trustees to Trust Local Governing Bodies 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 Trust school will identify governors who are qualified to take part on the pupil discipline committee or first committee. Governors will be selected for the committee from this identified list to ensure that governors are trained and able to accurately support the process.

The Pupil Discipline Committee or first committee has a duty to consider the reinstatement of an excluded pupil (see section 10).

Within 14 days of receipt of a request, the LGB in conjunction with the Tarka Learning Partnership CEO will provide the Secretary of State with information about any exclusions in the last 12 months. For a fixed-period exclusion of more than 5 school days, the LGB in conjunction with the Tarka learning Partnership's CEO 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.

## **9.3 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.

## **10. Considering the reinstatement of a pupil**

The Pupil Discipline Committee or 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 fixed-term exclusion 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 Pupil Discipline Committee or 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 Pupil Discipline Committee or first committee will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the Pupil Discipline Committee or first committee will consider the exclusion and decide whether or not to reinstate the pupil.

The Pupil Discipline Committee or 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 Pupil Discipline Committee or 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 Pupil Discipline Committee or 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 Pupil Discipline Committee or 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 Tarka Learning Partnership 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.

## 11. 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 LGB 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 Pupil Discipline Committee or first 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 governors category and 2 members will come from the Head Teacher 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 Head Teachers during this time.
- Head Teachers or individuals who have been a Head Teacher within the last 5 years.

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

- Are a Member/Trustee of the Tarka Learning Partnership or a Governor on the governing board of the excluding school.
- Are the Head Teacher of the excluding school, or have held this position in the last 5 years.
- Are an employee of the Tarka Learning Partnership or the governing board, of the excluding school (unless they are employed as a Head Teacher at another school).
- Have, or at any time have had, any connection with the Tarka Learning Partnership, excluding 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.

## 12. 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 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.

### **13. Returning from a fixed-term exclusion**

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

The following measures may be implemented when a pupil returns from a fixed-term exclusion and will be considered on a case by case basis:

- Agreeing a behaviour contract or individual behaviour plan.
- Putting a pupil 'on report'.
- Internal isolation.

### **14. 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 monitors the number of exclusions every term and reports back to the LGB. They also liaise with the local authority to ensure suitable full-time education for excluded pupils.

### **15. Links with other policies**

This exclusions policy is linked to each school's respective pupil behaviour policy

- Behaviour policy.
- SEN policy and information report where relevant.

## **Appendix 1: Independent review panel training**

The Tarka Learning Partnership will ensure where possible 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 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.