



**THE SALTERNS ACADEMY TRUST: TRAFALGAR SCHOOL**

**EXCLUSION POLICY**



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Summary of changes made:	Clarification: specify a 'committee' will review exclusions, not entire governing board.				

## CONTENTS

	<b>PAGE NO</b>
UNCRC.....	3
Aims .....	3
Legislation and statutory guidance .....	3
The decision to exclude .....	3
Definition .....	4
Roles and responsibilities for informing .....	4
Considering the reinstatement of a student .....	5
An independent review .....	6
School registers .....	7
Returning from a fixed term exclusion .....	7
Monitoring arrangements .....	8
Links with other policies .....	4

## **UNCRC**

Article 28 (Right to education): Every child has the right to an education. Primary education must be free and different forms of secondary education must be available to every child. Discipline in schools must respect children's dignity and their rights. Richer countries must help poorer countries achieve this.

At Trafalgar School we are passionate about inclusion and therefore exclusion from school occurs rarely. As a restorative school, much emphasis is placed on working proactively; building positive relationships and understanding behaviours, enabling all students to be successful within the school setting. Where exclusion from school is used, a recovery plan is put in place to prevent reoccurrence.

## **Aims**

The Headteacher and the Governors have a statutory right to exclude students who have been involved in very serious incidents or persistently breach the school's behavior policy. In these instances, students may be required to work in another school for a number of days, or at home. Permanent exclusion is when a student is no longer permitted to return to Trafalgar School. A permanent exclusion can be issued as a result of continued poor behaviour or as a result of a one-off serious incident.

Trafalgar School is committed to the progress of its students and will strive to support all students to access their education at every opportunity, therefore on the rare occasion exclusion from school is necessary, work will be provided to ensure minimal disruption to learning.

This policy aims to ensure that:

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

## **Legislation and statutory guidance**

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

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

- Section 52 of the Education Act 2002, as amended by the Education Act 2011
- The School Discipline (Student 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 students
- Section 579 of the Education Act 1996, which defines 'school day'
- The Education (Provision of Full-Time Education for Excluded Students) (England) Regulations 2007, as amended by The Education (Provision of Full-Time Education for Excluded Students) (England) (Amendment) Regulations 2014

## **The decision to exclude**

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

Trafalgar School is against the practice of 'off-rolling' and recognises this process is in fact unlawful. Ofsted defines off-rolling as:

"...the practice of removing a student 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 student."

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

A decision to exclude a student will be taken only:

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

Before deciding whether to exclude a student, either permanently or for a fixed period, the Headteacher will:

- Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked
- Allow the student to give their version of events
- Consider if the student has special educational needs (SEN)
- Explore the option of a school based exclusion

## **Definition**

For the purposes of 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.

## **Roles and responsibilities:**

### **Informing parents**

The Headteacher will provide the following information, in writing, to the parents of an excluded student (on the day the decision is taken):

- 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 student may be involved in this
- Where there is a legal requirement for the governing board to meet to consider the reinstatement of a student, and that parents have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend

The Headteacher will also notify parents on that day that for the first 5 school days of an exclusion, or until the start date of any alternative provision where this is earlier, they 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 / school based exclusion 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 student e.g. how to identify the person they should report to on the first day, how they will travel to/from the provision

Where this information on alternative provision is not reasonably ascertainable by the end of the afternoon session, it may be provided in a subsequent notice, but it will be provided no later than 48 hours before the provision is due to start\*.

\*The only exception to this is where alternative provision is to be provided before the sixth day of an exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent.

### **Informing the governing board and local authority**

The Headteacher will immediately notify the Chair of Governors and the local authority (LA) of:

- A permanent exclusion, including when a fixed-period exclusion is made permanent
- Exclusions which would result in the student being excluded for more than 5 school days (or more than 10 lunchtimes) in a term
- Exclusions which would result in the student missing a public examination

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

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

### **The Governing Board**

Responsibilities regarding exclusions is delegated to the Chair of Governors or Deputy in their absence.

The governing board has a duty to consider the reinstatement of an excluded student (see section – considering the reinstatement of a student).

Within 14 days of receipt of a request, the governing board 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 governing board will arrange suitable full-time education for the student. This provision will begin no later than the sixth day of the exclusion.

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

### **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.

### **Considering the reinstatement of a student**

The governing board will form a committee who will consider the reinstatement of an excluded student 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 student's total number of school days of exclusion to more than 15 in a term

- It would result in a student missing a public examination

If requested to do so by parents, the governing board will form a committee to consider the reinstatement of an excluded student within 50 school days of receiving notice of the exclusion if the student 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 student missing a public examination, the governing board will form a committee to consider the reinstatement of the student before the date of the examination. If this is not practicable, they will consider the exclusion and decide whether or not to reinstate the student.

The governing board can either:

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

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

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

The governing board will notify, in writing, the Headteacher, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the governing board 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 student's SEN are considered to be relevant to the exclusion
  - That, regardless of whether the excluded student has recognised SEN, parents have a right to require the academy 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.

### **An independent review**

If parents apply for an independent review, Salterns' Academy trust will arrange for an independent panel to review the decision of the governing board not to reinstate a permanently excluded student.

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

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 category.

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

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

- Are a member/director of Salterns Academy trust, or the governing Board of Trafalgar School
- Are the Headteacher of Trafalgar School, or have held this position in the last 5 years
- Are an employee of Salterns Academy trust, or the governing Board of Trafalgar School (unless they are employed as a Headteacher at another school)
- Have, or at any time have had, any connection with Salterns Academy trust, the school, governing board, parents or student, 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.

### **School registers**

A student'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 student 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 student's name from the register.

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

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

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

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

The following measures may be implemented when a student returns from a fixed-term exclusion:

- Reintegration through Compass Centre
- Report card
- Internal isolation
- Behaviour contract e.g. IBP / PSP
- Modification of timetable
- Referral to outside agency e.g. Educational Psychologist

### **Monitoring arrangements**

The Deputy Headteacher monitors the number of exclusions every term and reports back to the Headteacher as appropriate. They also liaise with the local authority to ensure suitable full-time education for excluded students.

This policy will be reviewed by Gemma Pearse, Deputy Headteacher, every two years. At every review, the policy will be shared with the governing board.

### **Links with other policies**

This exclusions policy is linked to our

- Behaviour policy
- SEND policy

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

Salterns Academy 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.