



Exclusion Policy

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Signed

Chairman of Governors

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Exclusion Policy

The Gateway School is an educational facility for young people who have special educational needs linked to difficulties in maintaining balanced social and emotional responses to a range of situations and events. They may also have poor mental health.

We acknowledge that these difficulties therefore may lead to our pupils exhibiting behaviour which could be judged inappropriate and/or disruptive. We work hard to ensure that our structures, our staffing and our curriculum go a long way toward mitigating the effects of these behaviours and prepare our pupils for adulthood. We hope to do this by enabling the development of skills, strategies and approaches which enable them to cope more effectively with difficult and challenging situations.

However, we are also aware that there are occasions whereby the behaviour of some pupils may affect the health, safety and well-being, and educational progress of those around them. In these instances we may use exclusion as a sanction.

Aim

Our school aims to ensure that:

- The exclusions process is applied fairly and consistently
- The 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)

A decision to exclude a pupil, either for a fixed period or permanently is seen as a last resort by the school. The school is responsible for communicating to pupils, parents and staff its expectations of standards of conduct. A range of policies and procedures are in place to promote good behaviour and appropriate conduct.

No exclusion will be initiated without first exhausting other strategies or, in the case of a serious single incident, a thorough investigation.

An exclusion will not be enforced if doing so may put the safety of the pupil at risk. In cases where parents/carers will not comply by, for example, refusing to collect the child, the child's welfare is the priority.

Reasons for exclusion

These may include:

- Serious breach of the school's rules or policies
- Persistent breaches of the school's rules or policies
- Damage to work, property, the building and/or equipment
- Risk of harm to the education or welfare of the pupil or others in the school
- Sexual harassment
- Harmful sexual behaviours
- Persistent bullying
- Persistent racist and other hate abuse
- Persistent refusal to comply
- The commission of criminal acts
- Drug dealing and substance abuse
- Assault(s) on another pupil
- Assault(s) on an adult

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 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

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](#)

Fixed Term Exclusion

Fixed-term exclusion is a temporary exclusion which should be for the shortest time necessary; Ofsted evidence suggests that 1-3 days is usually enough to secure benefits without adverse educational consequences.

For exclusions up to 5 days, parents/carers are responsible in law for providing supervision for the child in their care and for ensuring that the child is not found outside during normal school hours. The school will provide some homework to assist with this process if requested.

For exclusions beyond 5 days, i.e. 6 days or more, the school is required to make alternative, full-time provision for the student concerned.

When a student reaches 15 days of exclusion in any one (long) term, their case will be presented to the Governors' Discipline Committee for their consideration.

Fixed-term exclusion for a period of time from one to five days for persistent or cumulative problems would usually be imposed only when the school had already offered and implemented a range of support and management strategies within. These could include (although not exhaustively):

- Discussion with the pupil
- Mentoring
- Report card
- Discussions with parents
- Target setting
- Individual Behaviour Plans
- Support and Intervention Plans
- Identifying challenges
- Detention
- Mediation
- Counselling
- Internal exclusion

Fixed-term exclusion will not be used for minor incidents (e.g. lateness, poor academic performance or occasional breaches of uniform rules), except where these are persistent and openly defiant.

Single incident

Fixed-term exclusion may be used in response to a single but serious breach of school rules and policies or a disciplinary offence. In such cases the Headteacher will investigate the incident thoroughly and consider all evidence relating to the alleged incident, taking account of any other relevant school policies. The pupil will be encouraged to give his/her version of events and the Headteacher will check whether the incident may have been provoked, for example by bullying or racial/sexual harassment.

In cases of more than a day's exclusion, the school will

- Where requested, ensure appropriate work is set and that arrangements are in place for it to be marked
- Plan how to address the pupil's needs on his/her return
- Plan a meeting with parents and pupil on his/her return
- Send a letter to parents/carers outlining;
 - whether it is a permanent or temporary exclusion,
 - the length of the exclusion
 - the terms or conditions agreed for the pupil's return
 - the appeals process

Permanent Exclusion

A permanent exclusion may result from a single, one-off act which is so serious it may warrant this sanction. In addition to the above, if a student reaches 45 days of exclusion in an academic year, the exclusion will become permanent.

A permanent exclusion is a very serious decision and will only be implemented following the use, where possible, of a range of strategies and a full investigation. TGS regards this very much as an undesirable and last resort and, as such, will normally only be used in response to a very serious breach of school rules and policies or a criminal or disciplinary offence such as:

- Serious actual or threatened violence against another pupil or a member of staff
- Possession or use of an illegal drug on school premises
- Carrying an offensive weapon
- Persistent bullying
- Racial or sexual harassment

The decision to permanently exclude will only take place following a full investigation of the relevant incident(s) and will include the opportunity for all relevant parties to give their account of what is alleged to have happened.

If the Headteacher decides to permanently exclude a pupil he/she will:

- ensure that there is sufficient recorded evidence to support the decision
- explain the decision to the pupil
- contact the parents/carers, explain the decision and ask that the child be collected
- send a letter to the parents within 24 hours confirming the reasons for the permanent exclusion and informing parents/carers of the review process.

The Governors will meet, usually within 15 school days, to review the Headteacher's decision and will decide to either:

- Uphold the Exclusion, or
- Reinstate your child at the school immediately or by a specific date.

Behaviour outside school

Pupils' behaviour outside school on school business e.g. on school trips, at sports fixtures, is subject to the school's behaviour policy. Poor behaviour in such circumstances will be dealt with as if it had taken place in school.

For behaviour outside the school, not on school business, the Head may exclude a pupil if there is a clear link between that behaviour and maintaining good behaviour and discipline among the pupil body as a whole, or if it is deemed to be damaging to the reputation of the school.

Pupils and parents/carers should be aware that pupils are subject to our behaviour policy from the moment they begin their journey to school and until they have returned home.

Roles and responsibilities

The Headteacher

Informing parents

The Headteacher will immediately provide the following information, in writing, to the parents of an excluded pupil:

- 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
- How any representations should be made
- 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 Headteacher will also ensure that parents are notified by the end of the afternoon session 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 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 governing board and the local authority (LA) of:

- A permanent exclusion, including when a fixed-period exclusion is followed by a decision to permanently exclude a pupil
- 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 Headteacher 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 Headteacher will notify the governing board and LA once a term.

The governing board

Responsibilities regarding exclusions are delegated to the Behaviour and Safeguarding committee consisting of at least 3 governors.

The Behaviour and safeguarding committee has a duty to consider the reinstatement of an excluded pupil (see below).

The governing board has a duty to consider the reinstatement of an excluded pupil (see below).

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 pupil. This provision will begin no later than the sixth day of the exclusion.

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.

The Local Authority

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 pupil

The Behaviour and Safeguarding 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 or national curriculum test

If requested to do so by parents the behaviour and safeguarding 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 behaviour and safeguarding committee will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the chair of the governing board (or the vice-chair where the chair is unable to make this consideration) will consider the exclusion independently and decide whether or not to reinstate the pupil. The behaviour and safeguarding 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 Behaviour and Safeguarding 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 pupil's educational record.

The Behaviour and Safeguarding committee 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 Behaviour and Safeguarding 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 LA 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
 - Those 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, the LA will arrange for an independent panel to review the decision of the governing board not to reinstate a permanently excluded 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 governor's 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 of the LA or governing board of the excluding school
- Are the Headteacher of the excluding school, or have held this position in the last 5 years
- Are an employee of the LA or the governing board, of the excluding school (unless they are employed as a Headteacher at another school)
- Have, or at any time have had, any connection with the LA, 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.

Pupils with special educational needs and those with 'Protected Characteristics'

The school will take account of any special educational needs when considering whether or not to exclude a pupil.

We have a legal duty under the Equality Act 2010 not to discriminate against pupils with the protected characteristics that are specified in section 4 of the Act by excluding them from school for behaviour related to their disability or protected characteristic. The Principal should ensure that reasonable steps have been taken by the school to respond to a pupil's disability so the pupil is not treated less favourably for reasons related to their protected characteristics or disability.

'Reasonable steps' could include:

- differentiation in the school's behaviour policy
- developing strategies to modify the pupil's behaviour
- requesting external help with the pupil
- staff training

Where reasonable adjustments to policies and practices have been made to accommodate a pupil's needs and to avoid the necessity for exclusion as far as possible, exclusion may be justified if there is a material and substantial reason for it. A specific incident affecting order and discipline in the school may be such a reason.

Marking attendance registers following exclusion

When a pupil is excluded temporarily, he/she should be marked as absent using Code E.

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.

Monitoring arrangements

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

This policy will be reviewed by the governing body every 3 years. At every review, the policy will be approved by the Behaviour and Safeguarding of committee of the governing board.

Links with other policies

This exclusions policy is linked to our

- Behaviour policy
- SEN policy and information report

Appendix 1: Independent review panel training

The LA 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