

EXCLUSIONS POLICY

Tees Valley Education Trust

Version:	3.0
Next review date:	August 2024
Directorial lead:	Emma Lowe
Document reviewer:	Emma Lowe
Statutory (Y/N):	y
Published on website (Y/N):	Y
Type of document	Policy and procedures
Approved by:	Trust Board

Introduction

Tees Valley Education MAT endeavours to ensure that exclusion procedures at all TVED academies conform with statutory guidance set out by the Department for Education (DfE) in its guidance document: [*Suspension and permanent Exclusion from maintained schools, Academies and PRUs in England, including pupil movement \(May 2023\)*](#). The DfE guidance provides comprehensive information relating to exclusions, off-site direction, managed moves and re-instatement, and should be used as the primary information source for all matters on pupil exclusions.

Linked policies and documents:

TVED Written statement of behaviour principles

Academy Behaviour Policy (on each academy website)

TVED Positive Handling Policy

TVED Equality Policy

TVED SEND Policy (including graduated response)

TVED Safeguarding Policy

TVED Risk Assessment Policy

Academy 3 year Accessibility Plan (on each academy website)

DfE Behaviour in Schools (September 2022)

DfE KCSIE

DfE Children Missing Education

Aim

All parties involved in exclusions, including Headteachers, Heads of Academy, parents, Local Academy Discipline Committee members and Independent Review Panels, must have regard to the statutory guidance. This policy aims to set forth rights and responsibilities around exclusion with clarity and brevity, to ensure that all exclusion proceedings at any TVED academy are conducted in a fair and just manner, with appropriate notice to all, full participation of relevant parties, and within the statutorily designated timelines. For the full government exclusions guidance please follow the link above.

All members of the TVED community, parents, children and staff, are expected to work together in creating high standards of behaviour in all of our academies. Children and young people should be protected from disruption so they can learn and thrive in a calm, safe, and supportive environment. The government recognises that school exclusions, managed moves and off-site direction form part of the essential behaviour management tools for headteachers; they should be used to establish high standards of behaviour in schools and maintain the safety of school communities.

At TVED we recognise that any disruption to a child's learning can be detrimental to their well-being. A decision to exclude a child, and therefore preventing them from entering the academy, is never taken lightly. All Academy senior leaders are aware of their responsibility to work with parents and stakeholders in ensuring all excluded children receive continuous access to education. There are several ways in which this can happen: remote access to learning, a temporary arrangement in another academy within the TVED MAT, or, brokering support from another education provider. However, the LA has a duty to provide full-time education on day 6 if a child is permanently excluded.

A graduated approach

TVED Exclusion Policy is to be used in conjunction with each academy's own Behaviour Policy, and the DfE Behaviour in Schools guidance. Headteachers, trust leaders and school staff should be aware of the importance of implementing their academy behaviour policy effectively, so it creates a school culture with high expectations of behaviour. Therefore, the Exclusions Policy should only be necessary when strategies, practices and interventions set out within the academy Behaviour Policy have not been successful in improving a pupil's behaviour, or when the use of more significant interventions or sanctions are required.

Suspensions (Fixed-Term) and Permanent Exclusions

Exclusion can only be used for a breach of the academy's behaviour policy, and/or where 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. The academy Behaviour Policy must be widely published to all pupils and parents on the academy's website. There are two types of exclusion: suspension (previously referred to as fixed-term) and permanent exclusion. A half day suspension or lunch-time suspension is classed as one session. A full day suspension is therefore classed as two sessions.

When a pupil is suspended or excluded, parents will be notified "without delay"; this will be a phone call from the Headteacher or member of the SLT on the same day the exclusion is made, followed up by a letter to confirm the exclusion. If the child is known to social care, or is a LAC, then the Social Worker and/or virtual school head will be notified at the same time. All exclusions are logged on the academy MIS and copies of letters and other documentation saved on the child's record.

When a pupil is suspended or excluded, the local authority in which the pupil resides must be notified immediately, regardless of the length of suspension.

There is a limit of 45 school days in an academic year for suspensions (i.e 90 sessions). The law does not allow for 'converting' a suspension into a permanent exclusion. The academy may issue a suspension pending investigation and, where further evidence has come to light, issue a further suspension to begin immediately after the first suspension ends; or a permanent exclusion to begin immediately after the end of the suspension.

Permanent exclusions may only be in response to persistent breaches of the academy's behaviour policy or for a 'one-off' serious breach of the behaviour policy, **and**, where allowing the pupil to remain in the academy will be detrimental to the education and welfare of the pupil and/or others at the academy.

On the sixth consecutive day of a suspension, the academy (or local authority, in the event of a permanent exclusion) must arrange suitable full-time education for any pupil of compulsory school age. Where a pupil receives consecutive suspensions, these are regarded as a cumulative period of exclusion for the purposes of this duty.

Behaviour outside of the academy

Pupils can be excluded for behaviour outside of the academy, this may include behaviour on academy trips, on the way to and from the academy and behaviour which may bring the academy into disrepute. Cyber-bullying which takes place out of the academy may also lead to an exclusion.

The Headteacher / Head of Academy Role in Exclusions

Only the Headteacher or Head of Academy or acting HT or HOA may exclude a pupil.

Care must be taken to avoid 'informal' or 'unofficial' exclusions (e.g. sending a child home for a 'cooling down' period). However, a pupil whose behaviour at lunchtime is disruptive may be excluded from the academy premises for the duration of the lunchtime period, but this must be recorded as one excluded session.

Similarly, it is permissible for a pupil who, by joint agreement between the academy and parent, may benefit from a graduated response to promoting positive behaviour and access education within another TVED academy (internal exclusion) to encourage a period of reflection. Any such arrangement must be recorded on the pupil record and must not be used as a regular sanction or long-term arrangement. This period of time should be used by senior leaders to look consider next steps, which may include escalating and referral to external agencies.

Where a pupil has received multiple exclusions or is approaching the legal limit of 45 school days of suspension in an academic year, the Headteacher should consider whether exclusion is providing an effective sanction.

Exclusions are illegal if they occur for non-disciplinary reasons, such as:

- additional needs or a disability that the school feels it is unable to meet;
- lack of academic attainment/ability;
- the actions of a pupil's parent(s); or
- failure of a pupil to meet specific conditions before reinstatement.

Where an excluded pupil has identified Special Educational Needs or disability (SEN) and is on the SEND register, it must be demonstrated that the academy has regard for the SEND Code of Practice and has provided extensive means of support to help meet the pupil's needs, following the graduated response. Pupils often have associated needs and these may be a contributing factor which could be an underlying cause of disruptive behaviour. Assessment of whether appropriate provision is in place to support any SEND that a pupil may have and any intervention strategies should be discussed with and involve the pupil's parents.

The Headteacher/HoA should ensure that the Trust and Academy behaviour policies are aligned and the academy behaviour policy is reviewed on regular basis, and approved by the Local Academy Committee.

The Headteacher is able to cancel an exclusion that has not been reviewed by the governing board (previously referred to as rescinding/withdrawing a suspension or exclusion). It is expected this will be used where, following investigation, it is felt the suspension or exclusion should be cancelled, but where suspension or exclusion was the correct response initially. Where this occurs, parents and

governors must be notified, as should social workers/virtual school heads if relevant. Cancelled suspensions and/or exclusions should be reported to governors on a termly basis.

The role of the Governing Body / Local Academy Committee

The Governing Board or Local Academy Committee should ensure that they routinely review data to consider the level of pupil moves and the characteristics of pupils who have been excluded, or any cancelled exclusions, to ensure the sanction is only used when necessary as a last resort. Further details of the role of the governing body can be obtained in the DfE guidance (weblink earlier in this document).

Duty to Inform Parents

The parents/carers should be informed immediately by telephone and followed up in writing of the length and type of exclusion, and of their right to make representations to the local academy discipline committee (LADC). Students over 18 have to be informed and have the right to appeal on their own behalf. Pursuant to the duty of care placed on schools to ensure the welfare of pupils, parent(s) must be advised of an exclusion prior to the pupil being sent off-site.

TVED MAT maintains standard letters for notifying parents of exclusions, referencing the relevant Local Authority contacts in each letter, and the parents rights to Appeal to SENDIST if they believe the exclusion may have been made on the grounds of disability. Additional sources of independent support are also detailed in the letters, to enable parents to seek further advice, if required. If a pupil is known to social care or is LAC, then the Social Worker and Virtual Headteacher will be informed at the same time as parents/carers.

Reviewing and recording the decision to Exclude

The Trustees of the MAT devolve the duty of considering permanent exclusions to a delegated sub-committee of members of Academy trustees (referred to as the Local Academy Discipline Committee [LADC] for all Exclusion related incidents). The LADC attends to all pupil disciplinary and grievance matters. The LADC must review permanent exclusions and any suspensions which result in the pupil being excluded for more than 15 school days (singly or cumulatively) within one term.

Academies are responsible for the accurate recording exclusions on the school's relevant Management Information System (MIS) in a timely manner, and keeping careful track of suspensions that total more than 15 days in a term. The relevant codes must be used on the attendance register.

All exclusions must also be reported to the local authority immediately, to ensure the Local Authority officer with responsibility for exclusions makes contact with the family in a timely manner, especially in the case of a permanent exclusion, so the pupil is offered full-time education. This ensures the local authority fulfils its duty to provide the child with alternative educational provision from the sixth day of the exclusion.

Exclusions must be reported to Trust Board members (Termly Challenge Board or IMB) and Local Academy Committee as part of the Headteachers Report.

The LADC quorum is three academy Trustees, with a clerk appointed by TVED. One member on the panel will be designated as the Chair of the meeting and, in the event of a request for external

independent review by parents (see section below entitled Independent Review Panel), will represent the panel at that independent review meeting. The Headteacher making the exclusion cannot be a member of the panel.

Subject to the availability of LADC members, review meetings should be held within a period of 15 days from the date of the exclusion. It is important that the TVED academy clerk dealing with the administration of exclusions is advised of the exclusion without delay, and the Headteacher makes arrangements for paperwork to be prepared immediately.

- Suspensions totalling five or fewer school days (or 10 or fewer lunch-times or half days) in any one term must be reported to the governors at each meeting and recorded on the MIS. The governing body must consider any representations made by parents, but it cannot direct reinstatement and is not required to arrange a meeting with parents.
- If an exclusion means that a pupil will miss a public exam, the panel should try to meet before the date of the exam. If this is not practicable, the Chair of the LADC may use the emergency powers for Chair's action to review the exclusion alone.
- For suspensions of 6 to 15 school days within a term, if the parents chose to make representations, the LADC must consider within 50 school days of receiving the notice of exclusion whether the excluded pupil should be reinstated. In the absence of any representations from the parents, the LADC is not required to meet and cannot direct the reinstatement of the pupil.
- For suspensions that singly or cumulatively total more than 15 days in one term, and for permanent exclusions, the LADC panel must hold a formal hearing within 15 school days, whether or not the parent(s) make representations.

The LADC review panel may confirm the exclusion or direct reinstatement of the pupil. There is no legal option to impose a lesser sanction, i.e. to convert a permanent exclusion to a suspension.

The LADC review panel may direct reinstatement for any pupils suspended of more than five days or pupils who would miss a public exam or permanently excluded. If the pupil is to be reinstated, a re-integration programme should be planned with the academy.

If reinstatement is not practicable – because the pupil is already back in school or because the parent does not want it – the review panel must consider the representations made by the academy and parent(s), and decide whether or not the exclusion was justified. The decision should then be included in the pupil's record.

After the LADC review hearing, the clerk will inform the parties by telephone and followed up in writing about the result, with reasons for the decision. Decisions are communicated as soon as possible and every attempt is made to do this within 5 working days.

Principles of Natural Justice

All factual determinations are based on a balance of probabilities, both by Headteachers and at any subsequent review. This means that the Headteacher/LADC reviewing panel should accept that something happened if it is more likely that it happened than that it did not happen.

In making their decisions to exclude, Headteachers / HoA must ensure that their decisions are fair, based on the facts of the incident and do not include any elements of discrimination.

Members of the panel should be impartial, unprejudiced, have taken no previous part in the specific case, and have no personal or school interest in its result. Headteachers should not discuss individual exclusions with members of their LADC as cases may be referred to the LADC for review.

Parent(s) should be informed of the case put forward by the academy and have an opportunity to challenge it. The pupil should be involved, enabled and encouraged to participate at all stages of the suspension or permanent exclusion process, considering their age and ability to understand.

Both parties should be allowed to present their case without unreasonable interruption. Aggressive, repetitive or unnecessarily over-long presentations hinder the effectiveness of the review process and the Chair will retain discretion to curtail any such presentation.

Parent(s) should be able to bring one friend or adviser with them. An effective meeting, however, will not be able to accommodate large groups of people and the Chair retains ultimate discretion as to the attendance of invited parties beyond a reasonable number.

All documents to be used in evidence should be distributed to all parties at least five working days before the hearing. If new material is introduced at the hearing, all parties must have time to consider it. Should such new material be of significant content, the Chair has the discretion to adjourn the meeting to allow proper review.

No party to the hearing should be in the presence of the panel unless the other party is also present. Every party should feel that they have had a full opportunity to present their case and have it duly considered.

Standard of Evidence for Panel Meetings

TVED exclusion guidance has been issued to the LADC Panel to clarify the legal standards for review and the high quality of documentary evidence required for panel meetings. Headteachers and staff members delegated with responsibility for investigating breaches of behaviour policies should refer to this guidance. There should be no delays in gathering evidence and witness statements, both for reliability of recall and given the legal obligation to review exclusions within short statutory deadlines. All parties involved in the exclusion (child, staff, parent/carers, witnesses) are actively encouraged and enabled to provide evidence, in a format that takes account of any cognition or other impairment and with a reasonable time period allowed to do so. TVED will provide assistance with language and/or interpretation services should this be required. Equally, the evidence submitted, must be accessible by all who attend the panel meeting and are in a decision making role.

Independent Review Panel (IRP)

If a permanent exclusion is upheld, parent(s) must be told of their right to seek an independent review of the decision reached by the LADC and the deadline for seeking such a review. They also have the right to request the attendance of a SEN expert at the Independent Review Panel meeting.

Decision letters sent by TVED clerk to the parent(s) will include these details of the right of independent review. The parent(s) have 15 school days (from the date of receipt of the review panel's decision) to seek an independent review.

Within 15 school days of such a request, TVED clerk will engage the services of an external clerking agency to arrange and clerk the Independent Review Panel. The independent review is normally attended by the Headteacher, lead academy staff member on the case, and Chair of the original review panel. The clerk of the original panel may attend but plays no formal part in proceedings. Where the parent(s) has legal representation or it is considered appropriate on behalf of the academy, it may be agreed that the academy should also have legal representation. This will be arranged by TVED.

Both LACD meetings and Independent Review Panel meetings can be held face to face, or if requested by parent, via remote access (e.g video link), but must be agreed by all parties. Face to face meetings should always be encouraged.

The Independent Review Panel cannot direct a LADC to re-instate a pupil. It may:

- a) uphold the exclusion;
- b) recommend that the original panel reconsider its decision; or
- c) quash the original panel's decision and direct the panel to reconsider its decision.

In the latter case, the Independent Review Panel may decide to order that the academy makes a payment of £4,000 (the Pupil Basic Entitlement) if it does not offer to reinstate the pupil. This payment is made to the Local Authority to assist them in brokering alternative placement.

Parallel police proceedings

The LADC has no power to delay a hearing beyond the statutory time limit because of police proceedings. If a permanent exclusion is upheld in these circumstances, the parent has 15 days to request independent review in the normal way.

Department for Education Policy contacts

www.GOV.UK

Local Authority contacts

Middlesbrough Council School Exclusions

<https://middlesbrough.gov.uk/schools-and-education/exclusions-and-children-missing-education/exclusions/>

Redcar & Cleveland Council School Exclusions

<https://www.redcar-cleveland.gov.uk/schools-and-education/exclusions>

Stockton Council School Exclusions

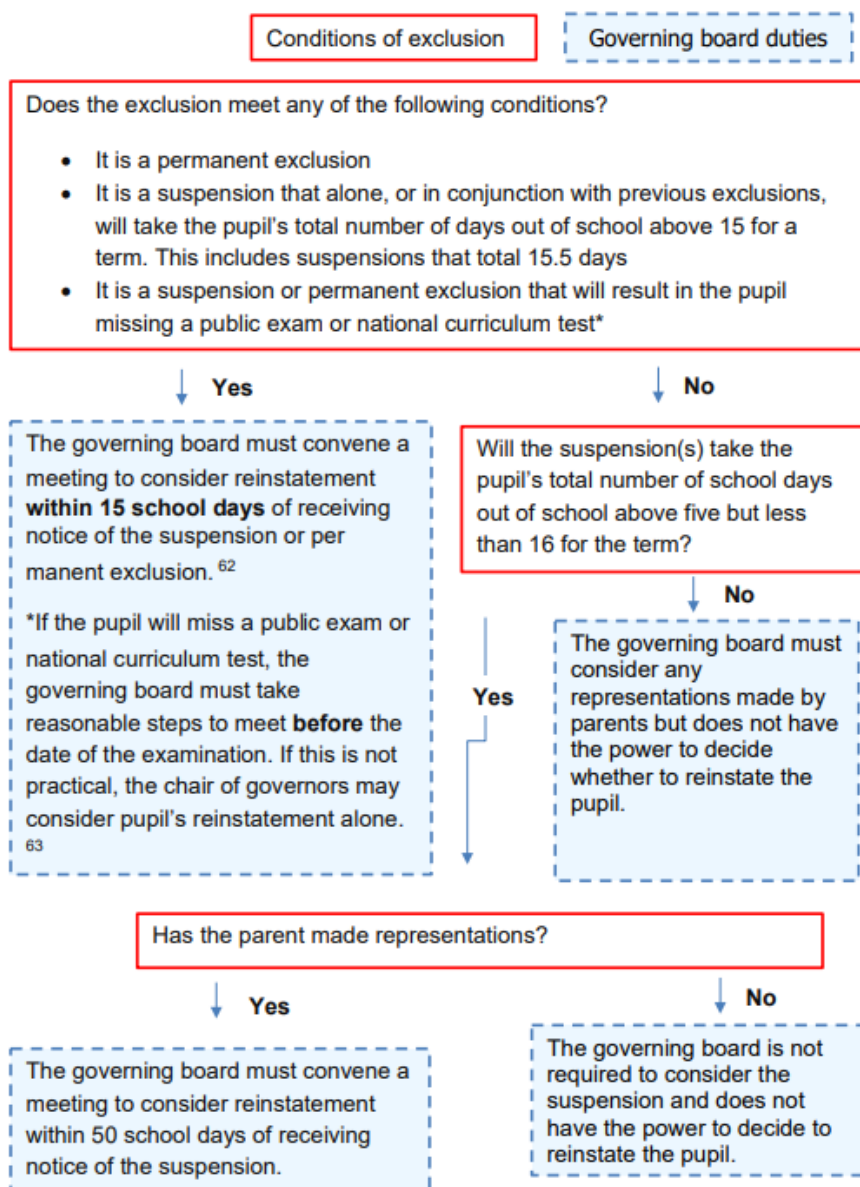
<https://www.stocktoninformationdirectory.org/kb5/stockton/directory/service.action?id=4Tr2ISXZOvY>

Monitoring and review

This policy will be reviewed biennially by the Director of SEND & Inclusion in conjunction with the trust board, or sooner if Government policy dictates. All members of staff are required to familiarise themselves with this policy as part of their contractual obligations. Any changes to the arrangements in this policy will be communicated to all stakeholders.

Annex 1 – Diagram of the LADC duties when requested to review a pupil exclusion.

A summary of the governing board's duties to consider reinstatement⁶¹



⁶¹ Parents on diagram refer to parent if the pupil is under 18 or the excluded pupil, aged 18 or over.

⁶² The governing board may delegate its functions to consider a suspension or permanent exclusion to a designated committee.

⁶³ The ability for a chair to review in the case of public exams refers only to maintained schools.