



# THE DWASTRE

## Education Trust

**Policy Name: EXCLUSION POLICY**

**Author: Standards Committee**

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**Publish on Trust website: Yes**

**Publish on Academy websites: Yes**

**Signed:**

A handwritten signature in blue ink, reading "Gary Oswald", is enclosed in a white rectangular box. The signature is written in a cursive style.

**Chair of Directors**



## EXCLUSION POLICY

### Introduction

The Waste Education Trust is committed to valuing diversity and to equality of opportunity. We aim to create and promote an environment in which pupils, parents and staff are treated fairly and with respect, and feel able to contribute to the best of their abilities.

Our schools/academies aim to ensure that:

- The exclusions process is applied equitably and consistently
- The exclusions process is understood by governors, staff, parents and pupils
- Pupils in school are safe and happy

### 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
- 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

This policy complies with our Trust Funding Agreement and Articles of Association.

### Partnership with Parents

Working in partnership with parents is an important factor in every child's success so that school expectations are clear and can be consistently be reinforced.

This includes:

- Ensuring that parents are kept informed about decisions made in response to a child's misbehaviour so that we can work together in the best interests of pupils to ensure expectations for behaviour are made clear.
- 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. These include Behaviour Policy and Home-School Agreement.



## **Supporting Pupils to Succeed**

We aim to include, not exclude, and we approach all challenging behaviour in a supportive and positive way. We recognise that such behaviour can sometimes be symptomatic of a real, deeper need for our support and understanding. All children can go through times of inappropriate behaviour, and we strive to never “give up” easily on a child as we recognise that each person has a unique contribution to make to school life and we want to support them to achieve this.

We will assess patterns of challenging behaviour in pupils and where patterns emerge we will systematically intervene, drawing up an action plan with the child, parent and teacher. It is the class teacher’s, parents’ and the child’s responsibility to ensure the action plan is followed. No exclusion will be initiated without first attempting other strategies, behaviour interventions or, in the case of a serious single incident, a proper investigation.

### **Behaviour Outside School**

Pupils’ behaviour outside school e.g. on school trips, or at sports events, is subject to the School’s behaviour policy. Unacceptable behaviour in such circumstances will be dealt with as if it had taken place in school; this includes any serious breach of policy which could ‘bring the school into disrepute’.

### **Fixed-term and Permanent Exclusions**

Exclusion can only be for a breach of a school/ academy’s behaviour policy. There are two types of exclusion: fixed-term (or fixed-period) and permanent:

#### **Fixed-term Exclusion**

A pupil may be excluded for one or more fixed periods up to a maximum of 15 days in an academic term (up to a maximum of 45 school days in a single academic year).

A fixed-term exclusion can also be for parts of the school day. For example, if a pupil’s behaviour at lunchtime is disruptive, they may be excluded from the school premises for the duration of the lunchtime period. A lunchtime exclusion counts as one half day.

The law does not allow for extending a fixed-term exclusion or ‘converting’ a fixed-term exclusion into a permanent exclusion. In exceptional cases, usually where further evidence has come to light, a further fixed-term exclusion may be issued to begin immediately after the first one ends; or a permanent exclusion may be issued to begin immediately after the end of the fixed term exclusion.

Where a pupil receives consecutive fixed-term exclusions, these are regarded as a cumulative period of exclusion and therefore on the sixth day of exclusion the school/academy/Trust must carefully assess the quality of the alternative educational provision and ensure appropriate safeguarding measures at these providers.

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

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 such as:

- Agreeing a behaviour contract

#### **Permanent Exclusion**

Permanent exclusions may only be in response to persistent breaches of the school/academy’s behaviour policy or for a ‘one-off’ serious breach of the behaviour policy, and where allowing the



pupil to remain in school will be detrimental to the education and welfare of the pupil and/or others at the academy. A permanent exclusion will be taken as a last resort where all alternatives have been considered and all strategies to change behaviour have failed.

On the sixth day of a permanent exclusion, the local authority must arrange suitable full-time education for any pupil of compulsory school age.

Any exclusion of a pupil, even for short periods of time, must be formally recorded.

### **The Decision to Exclude**

Only the headteacher, or acting headteacher, can exclude a pupil from school.

Our Trust 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 headteacher 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)

Exclusion may be the result of persistently poor behaviour or a serious single incident.

## **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 local governing body and how the pupil may be involved in this
- Where there is a legal requirement for the governing body 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 notify parents by the end of the afternoon session on the day their child is excluded for 5 school days, 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 the 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.

## **Safeguarding**

An exclusion will not be enforced if doing so may put the safety of the pupil at risk. In cases where parents will not comply by, for example, refusing to collect the child, the child's welfare is the priority. In this situation, depending on the reason for exclusion, the school may consider an internal exclusion until the end of the day, implementing the original exclusion decision from the time the child is collected from school, or, in more severe circumstances the school may contact Social Services and/or the Police to safely take the pupil off site.

## **Informing the Governing body and Local Authority (LA)**

The headteacher will immediately notify the governing body 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**
- For fixed-term exclusions where the number of days exclusion total between **6 to 15 school days**, if the parents make representations, the governing body must consider within 15 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 governing body is not required to meet and cannot direct the reinstatement of the pupil.
- 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 local authority' of the exclusion and the reason(s) for it without delay.

For all other exclusions, the headteacher will notify the governing body and LA once a term.

## **Local Governing Body (LGB)**

Responsibilities regarding exclusions are delegated to **Local Governing Body Pupil Discipline Committee** of each Academy/School. (a minimum of 3 governors]. One governor will be designated as Chair of the Committee and, in the event of a request for external independent review by parents, will represent the panel at that independent review meeting. The headteacher cannot be a member of the panel.

This committee has a duty to confirm the exclusion or consider the re-instatement of an excluded pupil.



## 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 Re-instatement of a Pupil

The **LGB Pupil Discipline Committee** will consider the re-instatement 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 LGB Committee will consider the reinstatement of an excluded pupil within 15 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 LGB Committee will consider the reinstatement of the pupil before the date of the examination.

If re-instatement 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 school and parent(s), and decide whether or not the exclusion was justified. The decision should then be included in the pupil's record.

The LGB Pupil Discipline Committee can either:

- Decline to re-instate the pupil, and confirm the exclusion  
or
- Direct the re-instatement of the pupil immediately, or on a particular date

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 LGB Committee will notify, in writing, the headteacher, parents and the LA of its decision, along with reasons for its decision, without delay and every attempt is made to do this within 5 working days after the date of the meeting.

Where an exclusion is permanent, the LGB 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 **Thedwastre Education 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

## Principles of Decision Making

In reaching a decision, the LGB 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.

## An Independent Review

If parents apply for an independent review, the **Thedwastre Education Trust** will arrange for an independent panel to review the decision of the Local Governing Body 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 **LGB Pupil Discipline 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 headteacher category plus a LA representative.

- A Director of the Trust will chair the panel provided that they have 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 from any school within the Trust, 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 Director/Governor on the governing body 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 excluding school
- Have, or at any time have had, any connection with the Thedwastre Education Trust, school, governing body, 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

A clerk will be appointed to the panel.

The independent review panel will decide one of the following:

- Uphold the governing body's decision on permanent exclusion
- Recommend that the governing body reconsiders re-instatement
- Quash the governing body's decision and direct that they reconsider re-instatement (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.

### **Monitoring Arrangements**

The school administrator monitors the number of exclusions every term and reports back to the headteacher/local governing body termly at LGB meetings. They also liaise with the local authority to ensure suitable full-time education is arranged for excluded pupils.

This policy will be reviewed by the Standards Committee every 3 years. At every review, the policy will be shared with the local governing body.

### **Links with other policies**

This exclusions policy is linked to our:

- Behaviour policy
- SEN policy
- Home School Agreement

### **Other Relevant Legislation and Guidance**

The principal legislation, guidance and regulations to which this guidance relates to:

- Education Act 2002, as amended by the Education Act 2011;
- School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012;
- Education and Inspections Act 2006;
- Education Act 1996; and
- 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;
- Exclusion from Maintained Schools, Academies and Pupil Referral Units in England - Statutory Guidance for those with Legal Responsibilities in Relation to Exclusion (September 2017)
- School attendance: Guidance for maintained schools, academies, independent schools and local authorities (November 2016)
- SEND code of practice: 0 to 25 years (updated 1 May 2015);
- Special Educational Needs and Disability Regulations 2014 (Part 4); and  Equality Act (2010).





## The Use of Exclusion: Guidance for Headteachers

ILLEGAL / NO GROUNDS	REASONABLE GROUNDS	STRONG GROUNDS
<b>Minor incidents</b>	<b>Breach of the school's behaviour policy</b>	<b>Serious breach of the school's behaviour policy</b>
Lateness	Serious harm to the education or welfare of the pupil or other pupils and/or staff	Carrying, threatening to use and or using an offensive weapon
Poor performance	Persistent refusal to co-operate with school staff, verbal aggression towards staff, pupils or other members of the school community	Repeated threats, and highly offensive and abusive language towards school staff, pupils or other members of the school community
		Actual physical harm to other pupils and staff
		Destruction or serious damage to school property or buildings



## **Appendix 1: Independent Review Panel Training**

The Thedwastre Education Trust will 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 cover:

- 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, local governing bodies and the review 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