



Trinity School and College



EXCLUSION POLICY

Trinity puts children's rights at the heart of our provision in order to improve well-being and develop every child's talents and abilities to their full potential. Trinity recognises the United Nations Convention on the Rights of the Child putting it into practice within the school and beyond.

This Policy draws from legislation and guidance as follows:

- The Children Act 1989
- Education Act 1996
- Education Act 2002 and regulations
- Education and Inspections Act 2006 and Regulations
- The Education Regulations 2006
- 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.
- School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- Behaviour and Discipline in Schools – A Guide for Headteachers and School Staff (2016)
- Exclusion from maintained schools, academies and pupil referral units in England Statutory guidance for those with legal responsibilities in relation to exclusion (2017)
- Working Together: Listening to the voices of children and young people

The Authority to Exclude

The Trinity Headteachers in conjunction with the Executive Lead for Pastoral, Welfare and Safeguarding can exclude a learner and this must be on disciplinary grounds. A learner may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or permanently. A fixed period exclusion does not have to be for a continuous period. In exceptional cases, usually where further evidence has come to light, a fixed period exclusion may be extended or converted to a permanent exclusion.

The Headteachers in conjunction with the Executive Lead for Pastoral, Welfare and Safeguarding may withdraw an exclusion that has not been reviewed by the Executive Principal or Cavendish Education Group Directors.

Any decision of Trinity, including exclusion, must be made in line with the principles of administrative law, i.e. that it is: lawful (with respect to the legislation relating directly to exclusions and a school's wider legal duties, including the European Convention of Human Rights); rational; reasonable; fair; and proportionate.

The Executive Lead must take account of their legal duty of care when sending a learner home following an exclusion.

When establishing the facts in relation to an exclusion decision the Headteacher must apply the civil standard of proof, i.e. 'on the balance of probabilities' it is more likely than not that a fact is true, rather than the criminal standard of 'beyond reasonable doubt'.

Under the Equality Act 2010 [Equal Opportunity and Diversity Policy] schools must not discriminate against, harass or victimise learners because of their: sex; race; disability; religion or belief; sexual orientation; because of a pregnancy / maternity; or because of a gender reassignment.

These duties need to be taken into account when deciding whether to exclude a learner. Schools must also ensure that their policies and practices do not discriminate against learners by unfairly increasing their risk of exclusion. Provisions within the Equality Act allow schools to take positive action to deal with particular disadvantages affecting one group, where this can be shown to be a proportionate way of dealing with such issues.

Trinity Headteachers (along with the Executive Lead) together with the Executive Principal and Cavendish Education Group Directors will take account of their statutory duties in relation to special educational needs and disability (SEND) when administering the exclusion process. This includes having regard to the SEN Code of Practice.

It is unlawful to exclude or to increase the severity of an exclusion for a non-disciplinary reason. For example, it would be unlawful to exclude a learner simply because they have additional needs or a disability that the school feels it is unable to meet, or for a reason such as: academic attainment / ability; the action of a learner's parents; or the failure of a learner to meet specific conditions before they are reinstated. Learners who repeatedly disobey their teachers' academic instructions could, however, be subject to exclusion, as would students who are disrupting the teaching, learning and safety within Trinity. All exclusions are formally recorded.

Communication of the Policy

This policy is made known to parents and carers as they sign the Contract Agreements on admission. This policy is on the website and signposted within the Welcome Pack. The Headteachers, Executive Lead together with the Executive Principal and Cavendish Education Group Directors have the authority to exclude learners who do not fulfil the admission criteria as a result of information not being made fully available on admission. Equally if it can be demonstrated that *more* support was required by the learner than can be offered/provided by the local authority, the parents or Trinity, and that there is a more suitable alternative school placement, the exclusion may be withdrawn and the change of school will be regarded as an appropriate educational transfer.

Factors that a Headteacher should take into account before taking the decision to exclude

A decision to exclude a learner permanently should only be taken:

- in response to a serious breach, or persistent breaches, of the school's behaviour policy; and
- where allowing the learner to remain in school would seriously harm the education or welfare of the learner or others in the Trinity or within the travel arrangements provided by the LA to and from the school or college.

The decision on whether to exclude is for the Headteachers and Executive Lead for a period of no more than 5 days to take. However, where practical, the Headteacher, and the Executive Lead will give learners an opportunity to present their case before taking the decision to exclude if this is possible.

Whilst an exclusion may still be an appropriate sanction, the Headteacher and Executive Lead should take account of any contributing factors that are identified after an incident of poor behaviour has occurred. For example, where it comes to light that a learner has suffered bereavement, has mental health issues or has been subject to bullying. All Trinity staff are aware of the SEND challenges of learners.

Early intervention to address underlying causes of disruptive behaviour should include an assessment of whether appropriate provision is in place to support any SEN or disability that a learner may have. The Headteachers and Executive Lead should also consider the use of a multi-agency assessment for learners who demonstrate persistent disruptive behaviour. Such assessments may pick up unidentified special educational needs but the scope of the assessment could go further, for example, by seeking to identify mental health or family problems.

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

Communication about an Exclusion

It is the headteacher's duty to inform parents about an exclusion

When the Headteacher and Executive Lead makes the decision to exclude a learner they must, without delay, notify parents of the period of the exclusion and the reasons for it.

The school will, without delay, provide parents with the following information in writing:

- the reasons for the exclusion,
- the period of a fixed period exclusion or, for a permanent exclusion, the fact that it is permanent,
- parents' right to make representations about the exclusion to the governing body (in line with the requirements set out in paragraphs 50 to 57) and how the learner may be involved in this,
- how any representations should be made, and
- where there is a legal requirement for the governing body to consider the exclusion, that parents have a right to attend a meeting, be represented at this meeting (at their own expense) and to bring a friend.

This written notification of the information can be provided by:

- delivering it directly to the parents;
- emailed (parentmail) directly to parents, as an attachment;

- leaving it at their last known address;
- by posting it to last known address.

Where an excluded learner is of compulsory school age the Headteacher and Executive Lead must also notify parents without delay, and by the end of the afternoon session:

- that for the first five 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 reasonable justification.

Parents must be informed where a fixed period exclusion has been extended or converted to a permanent exclusion. In such cases the Headteacher and Executive Lead must write again to the parents explaining the reasons for the change and providing any additional information required.

When notifying parents about an exclusion, the Headteacher and Executive Lead should set out what arrangements have been made to enable the learner to continue his / her education prior to the start of any alternative provision or the learner's return to school.

The Headteacher and Executive Lead will ensure that information provided to parents is clear and easily understood. Where the parents' first language is not English consideration should be given, where practical, to translating the letter or taking additional steps to ensure that the details of the exclusion and parents' right to make representations to the governing body have been understood.

Free and Impartial Information to Support Parents/Carers

When notifying parents about an exclusion the Headteacher and Executive Lead should draw attention to relevant sources of free and impartial information.

This information should include:

- a link to this statutory guidance on exclusions: **Exclusion guidance**;
- a link to the Coram Children's Legal Centre: **www.childrenslegalcentre.com** 08088 020 008; and
- where considered relevant by the Executive Headteacher, Vice Principal, Head of School or Head of College links to local services, such as Traveller Education Services or the local parent partnership (**www.parentpartnership.org.uk**).

Informing the Placing Authority and other Agencies

The Headteacher and Executive Lead, without delay, notify the local authority of:

- a permanent exclusion (including where a fixed period exclusion is made permanent);
- exclusions which would result in the learner being excluded for more than five school days (or more than ten lunchtimes) in a term; and
- exclusions which would result in the learner missing a public examination or national curriculum test.

For all other exclusions the Headteacher and Executive Lead will ensure that the local authority are notified and that information is available to the Executive Principal and Cavendish Education Group Directors termly. Notifications must include the reasons for the exclusion and the duration of any fixed period exclusion.

The Role of Local Authorities in Permanent Exclusions

For permanent exclusions, Trinity will call an Emergency review and the local authority will be informed so that they can make suitable arrangements for full-time education for the learner to begin no later than the sixth day of the exclusion. This will be the learner's 'home authority'. If at the review it is decided that Trinity can no longer meet the needs of the learner, or that continued inclusion of the learner at Trinity is detrimental to the continued education of other learners, then the local authority will take over the placement as from the end of the exclusion period. Until that time work will be provided for the learner, electronically and be marked by the Trinity Teachers. Should the learner not have a placement at a new school by the end of the Exclusion period, all documentation will be archived and made available to the local authority on receipt of the new school or college placement.

In addition, where a learner has a statement of Education, Health and Care Plan (EHCP), the local authority must ensure that an appropriate full-time placement is identified in consultation with the parents, who retain their rights to express a preference for a school that they wish their child to attend, or make representations for a placement in any other school.

Local authorities must have regard to the statutory guidance, *Promoting the Educational Achievement of Looked After Children: Statutory Guidance for Local Authorities* when carrying out their duties in relation to the education of looked after children.

Exclusion Appeals Process

The Executive Principal and Cavendish Education Group Directors will consider parents' representations about a permanent or fixed term exclusion of more than five days.

The following parties will be invited to a meeting with the Executive Principal and/or members of the Cavendish Education Group Directors and allowed to make representations:

- parents
- the Headteacher and Executive Lead
- representatives from the local authority or other professional agencies.

The Executive Lead will identify the steps they will take to ensure all parties will be supported to participate in their consideration and have their views properly heard. This is particularly important where learners under 18 are speaking about their own exclusion or giving evidence to the Executive Principal and Cavendish Education Group Directors.

The Trinity Executive PA will act as Clerk at the Directors Meeting ensuring that clear minutes are taken of the meeting as a record of the evidence that was considered by the Directors. These minutes should be made available to all parties on request.

The Executive Principal and Directors will ask all parties to withdraw before making a decision. The Trinity Executive PA will continue to support the Executive Principal and Directors with the wording of the Appeals Response letter. The Trinity Executive PA will help the Directors by referencing her notes of the meeting and with the wording of the decision letter.

In reaching a decision on whether or not to reinstate a learner, the Executive Principal and Cavendish Education Group Directors should consider whether the decision to exclude the learner was lawful, reasonable and procedurally fair, taking account of the Headteacher and Executive Lead. The Executive Principal and Directors should note the outcome of their consideration on the learner's educational record, along with copies of relevant papers for future reference.

Examinations and Registration

Exclusions that would result in a learner missing a public examination or national curriculum test

Whilst there is no automatic right for an excluded learner to take an examination or test on the excluding school's premises, the Executive Principal may consider whether it would be appropriate to exercise their discretion to allow an excluded learner on the premises for the sole purpose of taking the examination or test.

Registration

The Executive Lead and the Admissions and Marketing Manager must remove a learner's name from the school admissions register if:

- 15 school days have passed since the parents were notified of the Executive Principal and Directors' decision to uphold a permanent exclusion and no application has been made for an local authority independent review panel; or
- the parents have stated in writing that they will not be applying for a local authority independent review panel.

Whilst an excluded learner's name remains on a school's admissions register the learner should be marked using the appropriate attendance code (code E). Where alternative provision has been made that meets the requirements of the learner registration regulations, and the learner attends it, an appropriate attendance code, such as Code B (Education Off-site) or Code D (Dual Registration), should be used. Where learners are not attending alternative provision they should be marked absent using Code E.

Rebecca Kennedy, Headteacher
Thomas Furnell, Head of College
Georgina Moorcroft, Executive Lead for Pastoral, Welfare and Safeguarding

Date: November 2019
Review Date: September 2020



Elizabeth Baines, Executive Principal/Governor

Ratified 18th November 2019