



## Trinity Multi Academy Trust

<b>Policy:</b>	MAT Exclusions Policy
<b>Date of review:</b>	September 2018
<b>Date of next review:</b>	September 2020
<b>Lead professional:</b>	Vice Principal (or other SLG with responsibility for academy behavior)
<b>Status:</b>	Non - Statutory

# Empathy, Honesty, Respect, Responsibility

## 1. Introduction

- 1.1 Students will be encouraged and supported by staff to always perform to the best of their ability. The curriculum and lessons have been designed to interest and motivate students to want to do well.
- 1.2 The Governors and staff recognise that most students behave well all the time, and the academy's rewards system will recognise this. However, there may be times when the behaviour of one or more students does not meet academy expectations and disrupts the learning and/or is a threat to the health and safety of staff and/other students. In this case, the Principal may decide to exclude a student.
- 1.3 In discharging their duties the Principal and Governors of the academy will have regard to DfE guidance on exclusions.
- 1.4 A decision to exclude a student will only be taken:
- In response to serious breaches of the Academy's Behaviour and Discipline Policy; **AND** if allowing the student to remain in the academy would seriously harm the learning or welfare of the student or other students in the academy
  - In cases where there has been a major breach of normal expectations of conduct
  - In cases where there has been persistent defiance of academy authority or disruption of teaching and learning.
- 1.5 Before excluding a child, in most cases a range of alternative strategies will have been tried.

## 2 Serious incidents of misbehaviour leading to fixed term or permanent exclusion

### 2.1 Action to be invoked by Senior Staff in Serious Disciplinary Matters:

- Over serious matters a senior member of staff, i.e. a Vice Principal or a member of the Senior Leadership Team, must interview students. If the nature of the incident is very serious then two staff members should be present to conduct the interview
- The student should be questioned fairly and be given ample opportunity to give a response
- The student should be asked to provide a written statement of what happened and asked to sign it. At this stage this statement will help the Principal (or Acting Principal, in the Principal's absence) to decide on what further action should be taken.

### 2.2 In discharging their duties the Principal (or Acting Principal, in the Principal's absence) and Governors of the academy will have regard to DfE guidance on exclusions. In exceptional circumstances where, in the Principal's (or Acting Principal's, in the Principal's absence) judgment, it is appropriate to permanently exclude a child for a first or 'one off' offence. These might include:

- Serious actual or threatened violence with safeguarding concerns for others or the student themselves
- Sexual abuse or assault
- Possession/supplying an illegal drug
- Carrying an offensive weapon.

### 2.3 These instances are not exhaustive, but indicate the severity of such offences and the fact that such behaviour can affect the discipline and well-being of the school community.

## 3 Responsibilities of the Principal

### 3.1 The Principal alone (or the Acting Principal, in the Principal's absence) has the power to exclude pupils. In considering excluding a pupil the Principal should carry out a range of activities including:

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- Undertaking a thorough investigation
- Considering all the relevant facts and firm evidence to support the allegations
- Taking into account the Academy's Behaviour Policy. including the Equal Opportunities and Anti-Bullying policies
- Checking whether an incident appeared to be provoked by racial or sexual harassment
- Ensuring that all students involved, including those students with learning difficulties, have the opportunity to give their version of events
- Consulting other people or agencies except where they may be involved in any review of the exclusion
- Ensuring time has been given to addressing and supporting the student's individual problems

3.2 Before deciding to exclude a student permanently the Principal (or Acting Principal, in the Principal's absence) will normally first try a range of strategies including fixed term exclusion. Normally only when other strategies have been tried without success will the Principal consider permanent exclusion.

3.3 There are occasions when the severity of the offence will merit permanent exclusion, even when there has been no record of poor behaviour.

3.4 The Principal (or Acting Principal, in the Principal's absence) may exclude a student for one or more fixed periods up to and including 45 school days in any one academic year or permanently. However, before a permanent exclusion is considered the Principal will consider looking at possible alternative provision arrangements.

3.5 The Principal (or Acting Principal, in the Principal's absence) will aim for the shortest possible period of exclusion but, however brief, an exclusion plan will be made

- To enable the student to continue his or her education
- To use the time to address the student's problems
- To plan the process of reintegration

## 4 Informing Parents/ Carers about the Exclusion

4.1 The Principal (or Acting Principal, in the Principal's absence) will make sure the parent/carer is notified immediately, ideally by telephone, and that the telephone call is followed by a letter within one school day. An exclusion will normally begin on the next school day.

4.2 Letters about fixed period and permanent exclusions will explain:-

- Why the Principal decided to exclude the student and the steps taken to try to avoid the exclusion
- The parent's liability to a penalty notice or prosecution if the student is present in a public place during school hours when excluded, unless they can show a good reason for this
- The arrangements for enabling the student to continue his/her education, including setting and marking the student's work
- The parent's right to state their case to the Governing Board
- Who the parents should contact if they wish to state their case (usually the Clerk to the Governors)
- The latest date by which the parent can put a written statement to the Governing Board
- Who the parents should contact if they think the exclusion relates to a disability the student has
- Who the parents should contact if they think the exclusion relates to any other form of discrimination
- The parent's right to see and have a copy of their child's record
- If the exclusion is for a **fixed period**, the length of the exclusion and the date and time the student should return to the academy
- Information regarding the arrangements for a reintegration meeting
- If the exclusion is **permanent**, the date the permanent exclusion takes effect, and details of any relevant previous warnings, fixed period exclusions or other disciplinary measures taken before the present incident.

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4.3 If the Principal (or Acting Principal, in the Principal's absence) wishes to permanently exclude a student following an investigation into a fixed term exclusion, s/he will again write to the parent explaining the reasons and making the other points above.

### **5 Informing the Governing Board**

5.1 The Principal will inform the Chair of the Governing Board of:-

- All permanent exclusions
- All exclusions which would result, separately or in total, in the student missing more than five school days in any one term
- All exclusions which deny students the opportunity to take a public examination.

5.2 Fixed period exclusions of one to five school days in total will be reported termly, unless the Governing Board asks for more frequent reports.

5.3 The Principal (or Acting Principal, in the Principal's absence) will inform the pupil's home LA of that pupil's permanent exclusion, so that the LA can make preparations to provide him/her with suitable full-time education from the 6<sup>th</sup> school day of the permanent exclusion.

### **6 Responsibilities of the Governing Board**

6.1 The Governing Board does not have the right to exclude a student. The Governing Board will review the use of exclusion in the academy regularly. The Governing Board may establish a Discipline Committee and, when the need arises, will establish an Independent Review Panel.

6.2 When the Governing Board is required to establish a Discipline Committee, it will consist of at least three Governors who will review the use of exclusion within the academy, including considering the views of the parents of an excluded student, and deciding whether or not to confirm exclusions of more than five school days or those where a student would miss an opportunity to take a public examination. The Governing Board will appoint a clerk to the Discipline Committee to provide advice on the exclusions process and to handle the administrative arrangements for considering exclusions.

6.3 If the exclusion is for five school days or fewer the Governing Board will consider any statement submitted by the parent. If any exclusion would cause the student to miss sitting a public examination the Governing Board will try to meet before the public examination. Where a public examination is concerned, if it is not practical for the Governing Board to meet, the Chair of the Governors will consider the exclusion. Alternative arrangements to allow an excluded student to take public examinations will be considered.

6.4 For exclusions of more than 15 school days in a term the Governing Board will consider the exclusion and decide whether the student should be reinstated. If a student has been excluded on a number of occasions the Governing Board will meet once the student has missed more than 15 school days in the term. The parent can request a meeting for one or more exclusions totalling over 5 school days in a term.

6.5 For permanent exclusions the Governing Board will consider the exclusion and decide whether the student should be reinstated. Such consideration will take account of the student's disciplinary record and the interests of the whole school community of the academy as well as the severity of the offence.

6.6 On receiving notice from the Principal (or Acting Principal, in the Principal's absence) that a student has been excluded for more than five school days, the Clerk to the Governors should:

- For an exclusion of between six school days and 15 school days in a term, set up a meeting only if requested by the parent

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- For an exclusion of over 15 school days, set up a meeting to consider the exclusion; invite the parent to the meeting, at a time and place convenient to all parties as far as possible. The parent may be accompanied by a friend or a legal representative at their request
- Ask for any written statements in advance of any meeting
- Circulate any written statements, ensuring that the identity of students is concealed if thought appropriate, and a list of those who will be present at the meeting to all parties attending, at least 5 days in advance of the meeting
- The chair of the Governing Board should normally allow the excluded student to attend the meeting and speak if the parent and the pupil ask for this. If the student is 18 or over, he/she presents his/her own case.

### **7 Procedure at the Meeting**

7.1 If the student is back at school before the Governing Board meets, the meeting still enables the parent to give their views. The Governing Board can also consider whether more information should be added to the student's record.

7.2 If the student is still excluded when the meeting takes place, the Governing Board should decide whether to direct re-instatement. In reaching their decision the Governing Board should:

- Consider the parent's statements/representations
- Have regard to DfE guidance on the appropriate use of exclusion and the Academy's Positive Behaviour Policy. Also, they should consider whether the Principal has tried sufficient approaches to improve a student's behaviour before resorting to exclusion, and whether any further strategies might be an alternative to exclusion
- In the case of a permanent exclusion the Governing Board should normally satisfy itself that all possible strategies to improve a student's behaviour were tried without success. Strategies should include those in DfE guidance, including a Pastoral Support Programme. For children with statements of SEN, asking the LA to review the statement might be better than resorting to exclusion
- The Governing Board may not attach conditions to the re-instatement of a student.

7.3 If the Governing Board upholds the Principal's (or Acting Principal, in the Principal's absence) decision to exclude a student permanently, it will write within one school day to the parent:

- Giving the reasons for the decision
- Explaining the parent's right to an Independent Review to which the parents can make oral and written statements
- Giving the name and address of the person the parents should contact if they wish to go to Independent Review, explaining that any notice of an Independent Review should give the grounds of the Independent Review and stating the latest date for giving notice (15 school days from the date of notification of the Governing Board's decision). The parent has the right to an Independent Review even if they did not make a case to the Governing Board.

7.4 If the Governing Board upholds a decision to exclude a student permanently it will notify the student's home LA in writing of this decision within one school day of the meeting. The Governing Board's decision on fixed term exclusions is final. In the case of permanent exclusions, parents may appeal to an Independent Review Panel.

### **8 After the Meeting**

8.1 A note of the Governing Board's views on the exclusion, decision letter and minutes of the meeting should normally be placed on the student's record with a copy of the Principal's exclusion letter.

## **9 Independent Reviews**

9.1 Parents whose child is excluded permanently from the academy have the right to apply for an Independent Review against the Governing Board's decision to uphold the exclusion. This application is made to the Independent Review Panel. The right to an Independent Review is unrestricted subject to the time limit.

9.2 An application for Independent Review must be lodged in writing to the Clerk to the Independent Review Panel within 15 school days from the date the parent receives notice of the decision of the Governing Board. The panel should meet as soon as possible but in any event within 15 school days of the notification of Independent Review.

## **10 Arranging an Independent Review Hearing**

10.1 Cathedral Academy is signed up to the Wakefield Council SLA for Independent Reviews and the Local Authority (L.A.) will make arrangements in respect of this academy; all other academies in the trust are not currently signed up to a SLA with a L.A. and Trinity MAT will arrange Independent Reviews in relation to these. The letter from the Clerk to the Governors will inform the parents of their right to an Independent Review against the decision of the Governing Board not to re-instate the permanently excluded student. The letter will give the name and contact details of the Clerk to the Independent Review Panel (who should not be the same person as the Clerk to the Governors) and explain that the Parent's notice of Independent Review must be in writing and set out the grounds of the application. The letter will tell the parents that the final date for lodging an application will be 15 school days from the date the parent receives notice from the Governing Board.

10.2 The day on which the parent is given notice will be taken to be the second school day after the date of posting by first class post, or where the notice is hand-delivered, the date of delivery (unless a different date of receipt can be demonstrated). No Independent Review application will be accepted if it is made after the final date for lodging an application.

10.3 The Independent Review Panel will comprise three or five members plus a clerk; the clerk will be appointed by the Local Authority in the case of Cathedral Academy and arranged by Trinity MAT in the case of all other academies.

10.4 No Governor, employee of the Academy Trust or person who has had any connection with the Academy Trust or with the excluded student or with the incident leading to the exclusion, shall serve on the Independent Review Panel. The Independent Review Panel will meet within 15 school days of the date the parent lodges notice of an Independent Review.

10.5 Those entitled to attend a hearing and present their case are:-

- The parent (or the student if aged 18 or over), who may be represented by a legal or other representative.
- The Principal, or representative of the Principal, who may make oral representations.
- A nominated member of the Governing Board who may make oral representations. (This is usually the Chair of the Governing Board Meeting)
- A legal or other representative of the Governing Board.
- The LA representative if invited by the parent and subject to the Independent Review Panels consent can make representations.

10.6 The Principal (or Acting Principal, in the Principal's absence) and Governing Board may also make written representations. Wherever possible, the Clerk will make available all written evidence to the panel members and the parent five working days in advance of the hearing. The student, if the parent requests, will normally be allowed to attend the hearing and speak on his \ her own behalf.

## 11 Procedure at the Hearing

- 11.1 The Independent Review hearing will not be held at the academy. The Independent Review Panel will do everything possible to establish an atmosphere of informality where the parties can present their cases effectively.
- 11.2 In considering an Independent Review, the panel will decide whether the student actually did what he or she is accused of doing. If more than one incident of misconduct is alleged, the panel will decide on each incident. If satisfied on the balance of probabilities that the student did what he was alleged to have done, and then the panel will decide whether, considering all relevant factors, permanent exclusion was a reasonable response to that conduct. Relevant factors must include:
- The broader interests of other students and staff in the academy, as well as those of the excluded student.
  - The academy's published Discipline Policy.
  - Where other students were involved in the same incident and were also disciplined, the fairness of the permanent exclusion in relation to the sanctions imposed on the other students involved.
- 11.3 To reach a decision, the panel may need to hear evidence from those directly or indirectly involved, including the student. The Governing Board may not introduce new reasons for the exclusion. However, the parent may put forward new information that may not previously have been available. If this happens, the Governing Board should be given an opportunity to respond.
- 11.4 The order of hearing will be notified in advance to the parties. At the start of the hearing the chair will welcome the parties and introduce those present, pointing out that the panel is independent of the academy and its Governing Board and that its decision is binding on them. The chair will explain the order in which the parties entitled to be heard will state their case and that there will be an opportunity for questioning by the other parties afterwards.
- 11.5 The panel members may also ask questions of the other parties to the review or of any witnesses who appear, in order to clarify an issue or to elicit more information. The aim will be for panel members to ask their questions at the end of each party's statement and following questions by the other parties.
- 11.6 The clerk may be called on to give legal or procedural advice to the Independent Review Panel during the course of the hearing and when they retire to consider their decision.
- 11.7 The chair will order proceedings and lead the panel in establishing the relevant facts. If the parent appears to be having difficulty in presenting their case, the chair should intervene to assist them to ensure that their case is established and that factual matters not in dispute are clearly identified. The chair will assist parents who have English as a second language or who have literacy problems, and who may not have understood all the paperwork. It is for the panel to consider how best to enable parents and pupil to access the meeting, for example by providing an interpreter.
- 11.8 If the Independent Review Panel wishes to vary the notified procedure, they should only do so after hearing the views of all the parties present and entitled to make representations.
- 11.9 Sufficient time will be allowed for each party to put its case. The panel should ensure that parents are given the opportunity to comment on relevant information obtained from the Governing Board. Care must be taken to ensure that no party attending the hearing is present alone with the Independent Review Panel.

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11.10 In exceptional cases the panel may adjourn an Independent Review to a later date. If there is an adjournment, it is essential that no part of the proceedings takes place other than in the presence of all the panel members

### **12 Evidence and Witnesses**

12.1 Where the academy's case rests largely or solely on physical evidence, and where the facts are in dispute, then the physical evidence, if practicable, should be retained and be available to the panel, if they wish to see it. Where there are difficulties in retaining physical evidence, photographs or signed witness statements are acceptable as evidence.

12.2 The Independent Review Panel cannot compel witnesses to attend and any witnesses must therefore appear before it voluntarily. The Independent Review Panel may wish to call witnesses who saw the incident or behaviour which gave rise to the exclusion. They may also wish to call a teacher or teachers (other than the Principal) who investigated the incident and interviewed students.

12.3 The Principal (or Acting Principal, in the Principal's absence) has the right to make written representations to the panel and to appear and make oral representations (including a Principal who has left).

12.4 Where adult witnesses are unwilling to appear in person or are unavailable, the panel must rely on their written statements, copies of which will have been circulated to all parties by the clerk before the hearing. In the case of witnesses who are students of the academy, it will generally be appropriate for the panel to rely on their written statements. Students may, however appear as witnesses in person if they do so voluntarily and their parents consent. All written witness statements must be attributed and signed, except in cases where the school has good reason to wish to protect the anonymity of students. In such cases the statement will not be attributed and some names may be blanked out but the statement must be dated. The general principle remains that someone accused of something is entitled to know the substance and the source of the accusation. If any witnesses are going to appear in person, all parties need to know the details in advance of the day of the hearing.

12.5 The calling of character witnesses is at the discretion of the panel, but should be allowed unless there is good reason to refuse. It is for the panel to decide whether any witnesses, having given evidence, should remain for the remainder of the hearing.

12.6 If any of the parties intend to raise matters or produce documents at the hearing which are not covered by the statement of decision or the notice of an Independent Review these should be submitted to the clerk to the Independent Review Panel in good time before the hearing. If substantial new issues are raised for the first time at the hearing, an adjournment may be necessary to allow all parties to consider the issues.

12.7 The Independent Review Panel will rehear all the facts of the case. If parents have fresh evidence to present to the panel they may do so. The Independent Review Panel can decide to either uphold the Governing Board's decision; recommend that the governing board reconsiders reinstatement; or quash the decision and direct that the Governing Board reconsiders reinstatement. If the Independent Review Panel recommends reinstatement or quashes the Governing Board's decision, the Governing Board must be reconvened within 10 days of being given notice of the Independent Review Panel's decision.

12.8 Under no circumstances can an Independent Review continue if the number of panel members drops below three at any stage during the review. Once an Independent Review has begun, no panel member may be substituted by a new member for any reason. In the case of a five member panel, if any member dies or is taken ill, the panel may continue, provided the three categories of member are still represented on the panel. In such cases the Chair would have the casting vote.

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12.9 Parents also have a right to ask for an SEN (Special Educational Needs) expert to attend the review at no extra cost to them, even if their child does not have recognised special educational needs. The SEN will act like an expert witness, using the evidence provided to the panel to give impartial advice on how special educational needs might be relevant to the exclusion. They will focus on whether the school's/academy's policies for pupils with SEN, and where applied to your son/daughter, were legal, reasonable and procedurally fair. However, the SEN expert will not make an assessment of the child's special educational needs.

### **13 Record of the Proceedings of an Independent Review Hearing**

13.1 The clerk to an Independent Review should take minutes of the proceedings, the attendance, the voting and record the decision in a format approved by the Independent Review Panel.

### **14 After the Hearing**

14.1 The decision of the Independent Review Panel is binding on all parties. The Independent Review Panel will communicate its decision to all parties by the end of the second school day after the review hearing. Where a hearing is held on the last day of term or outside term-time, the panel will notify all parties by the end of the second working day after the conclusion of the hearing.

14.2 If the Independent Review Panel upholds the Governing Board's decision, the clerk should immediately report this to the student's home LA. The clerk should also advise the parent to contact the LA about arrangements for their child's continuing education. The Principal should remove the student's name from the academy's roll the day after the conclusion of the Independent Review.

14.3 Details of exclusion may not be deleted from the student record, where an exclusion is a matter of fact. The Governing Board must, however, comply with any parental request to append their Independent Review statement to the student's record. It will be for the Governing Board to decide what details of the exclusion are included in the student's school record: copies of the principal correspondence should be included and the minutes of the Governing Board meeting and a copy of the decision letter of the Independent Review Panel hearing if the Governing Board and Independent Review Panel respectively agree to this.