

**Tregony Community Primary School**

**(part of The Roseland Multi Academy Trust)**

 **EXCLUSIONS POLICY**

**(Statutory)**

Approved: Autumn Term 2021

Date of Next Review: Autumn Term 2024

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| **Equality Impact Assessment - Policy Review****In reviewing this policy, we have tried to make a positive impact on equality by considering and reducing or removing inequalities and barriers which already existed. We have ensured that this policy does not impact negatively on the dimensions of equality.** |

Tregony Community Primary School, part of The Roseland Multi-Academy Trust, is committed to being a fully accessible and inclusive organisation, welcoming and respecting the diversity of its pupil, staff, community and visitors to the school.

**Aims**

Our school aims to ensure that:

* The exclusions process is applied fairly and consistently.
* The exclusions process is understood by trustees, staff, parents/carers and students.
* Students 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 student referral units in England*

It is based on the following legislation, which outline schools’ powers to exclude students:

* the Education Act 2002, as amended by the Education Act 2011;
* the School Discipline (student Exclusions and Reviews) (England) Regulations 2012;
* the Education and Inspections Act 2006; the Education Act 1996;
* and the Education (Provision of Full-Time Education for Excluded students) (England) Regulations 2007, as amended by the Education (Provision of Full-Time Education for Excluded students) (England) (Amendment) Regulations 2014.

This policy complies with our funding agreement and articles of association.

**Rationale**

This policy is underpinned by the commitment of all at Tregony Community Primary School to ensure the safety and wellbeing of the whole school community and to maintain an appropriate educational environment in which all can learn and achieve. In this policy and the accompanying procedures the Trust Board aims to discharge appropriately its statutory duties as set out in Exclusions from maintained schools, Academies and pupil referral units in England.

# The Decision to Exclude

Only the Headteacher or an acting headteacher can exclude a student from school. A student 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 permanent exclusion will be taken as a last resort.

Any decision of a school, 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 on Human Rights and the Equality Act 2010); rational; reasonable; fair; and proportionate.

A decision to exclude a student will be taken when there are infringements of the school’s Behaviour Policy and in response to serious or persistent breaches of the school’s behaviour policy, **and** if allowing the student to remain in school would seriously harm the education, safety or welfare of others. There may be other situations where the Headteacher makes the judgment that exclusion is an appropriate sanction. Exclusions can be either fixed term or permanent.

Before deciding whether to exclude a student, 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 student to give their version of events;
	+ consider if the student has special educational needs (SEN).

Having considered these matters, the Headteacher will make a decision on exclusion based on the balance of probabilities established. In reaching a decision, the Headteacher, will look at each case on its own merits and avoid a tariff system, ie, fixing a standard penalty for a particular action, as unfair and inappropriate.

# Roles and Responsibilities

**The Headteacher / Acting Headteacher**

**Informing Parents/Carers**

The Headteacher will provide the following information as soon as practicable, in writing, to the parents/carers of an excluded student:

* the reason(s) 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 Trust Board (in line with the requirements set out in paragraphs 52 to 60) and how the student may be involved in this;
* how any representations should be made;
* and where there is a legal requirement for the Trust Board to consider the exclusion, that parents have a right to attend a meeting, to be represented at that meeting (at their own expense) and to bring a friend.

The Headteacher will also notify parents/carers 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/carers are legally required to ensure that their child is not present in a public place during school hours without a good reason. Parents/carers 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/carers of an exclusion:

* the start date for any provision of full-time education that has been arranged for the child during the exclusion;
* 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; and
* any information required by the student 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’/carers’ consent.

**Informing the Trust Board and Local Authority**

The Headteacher will immediately notify the Trust Board and the Local Authority (LA) of:

* any permanent exclusion (including where a fixed-period exclusion is followed by a decision to permanently exclude the student);
* any exclusion which would result in the student being excluded for a total of more than five school days (or more than ten lunchtimes) in a term; and
* any exclusion which would result in the student missing a public examination or national curriculum test.

For a permanent exclusion, if the student lives outside the LA in which the school is located, the Headteacher will also immediately inform the student’s ‘home authority’ of the exclusion and the reason(s) for it without delay.

For all other exclusions, the Headteacher will notify the Trust Board once a term.

# 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.

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* any exclusion which would result in the student missing a public examination or national curriculum test.

**The Trust Board**

Responsibilities regarding exclusions are delegated to a panel of Trustees. The panel has a duty to consider the reinstatement of an excluded student. The panel will consist of 3 trustees (see Considering the Reinstatement of a Student (below)).

The Trust Board has a duty to consider the reinstatement of an excluded student within 14 days of receipt of a request, the Trust 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 Trust Board will arrange suitable full-time education for the student. This provision will begin no later than the sixth day of the exclusion.

Provision does not have to be arranged for students in the final year of compulsory education who do not have any further public examinations to sit.

Where a student has an EHC plan, the local authority may need to review the plan or reassess the child’s needs, in consultation with parents, with a view to identifying a new placement

**The Local Authority (LA)**

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 Student

The panel of trustees will consider the reinstatement of an excluded student 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 student's total number of school days of exclusion to more than 15 in a term;
* it would result in a student missing a public examination.

Where the Trust Board is legally required to consider the reinstatement of an excluded student they should:

* not discuss the exclusion with any party outside the meeting;
* ask for any written evidence in advance of the meeting (including witness statements and other relevant information held by the school such as those relating to a student’s SEN);
* where possible, circulate any written evidence and information, including a list of those who will be present, to all parties at least five school days in advance of the meeting;
* allow parents and the student to be accompanied by a friend or representative (where a student under 18 is to be invited as a witness, the trustee board should first seek parental consent and invite the parents to accompany their child to the meeting);
* comply with their duty to make reasonable adjustments for people who use the school and consider what reasonable adjustments should be made to support the attendance and contribution of parties at the meeting (for example where a parent or student has a disability in relation to mobility or communication that has an impact upon their ability to attend the meeting or to make representations); and
* identify the steps they will take to enable and encourage the excluded student to attend the meeting and speak on their own behalf (such as providing accessible information or allowing them to bring a friend), taking into account the student’s age and understanding; or how the excluded student may feed in their views by other means if attending the exclusion meeting is not possible

If requested to do so by parents/carers, the panel of trustees will consider the reinstatement of an excluded student within 50 school days of receiving notice of the exclusion if the student 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 student missing a public examination, the panel of trustees will consider the reinstatement of the student before the date of the examination. If this is not practicable, the panel of trustees will consider the exclusion and decide whether or not to reinstate the student.

The panel of trustees can either:

* decline to reinstate the student, or;
* direct the reinstatement of the student immediately or on a particular date.

In reaching a decision, the panel of trustees 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 student’s educational record. The panel of trustees will notify, in writing, the Headteacher, parents/carers and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the panel of trustees’ decision will also include the following:

* The fact that it is permanent.
* Notice of parents’/carers’ 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 student’s SEN are considered to be relevant to the exclusion.
	+ That, regardless of whether the excluded student has recognised SEN, parents/carers have a right to require the 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/carers for this appointment.
	+ That parents/carers must make clear if they wish for an SEN expert to be appointed in any application for a review.
	+ That parents/carers may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents/carers may also bring a friend to the review.
* If parents/carers 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/carers apply for an independent review, the LA will arrange for an independent panel to review the decision of the Trust Board not to reinstate a permanently excluded student.

Applications for an independent review must be made within 15 school days of notice being given to the parents/carers by the panel of trustees of its decision to not reinstate a student. Where an application has not been made within this time frame, within 15 school days of the final determination of a claim of discrimination under the Equality Act 2010 in relation to the exclusion.

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 trustees 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 trustees who have served as a trustee 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 Trust, or Trust 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 Trust, or the Trust 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 Trust, school, Trust Board, parents/carers or student, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartially.
* 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 Trust Board’s decision.
* Recommend that the Trust Board reconsiders reinstatement.
* Quash the Trust 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.

# School Registers

A student's name will be removed from the school admissions register if:

* 15 school days have passed since the parents/carers were notified of the exclusion panel’s decision to not reinstate the student and no application has been made for an independent review panel, or
* the parents/carers have stated in writing that they will not be applying for an independent review panel.

Where an application for an independent review has been made, the Trust Board will wait until that review has concluded before removing a student’s name from the register.

Where alternative provision has been made for an excluded student and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.

Where excluded students are not attending alternative provision, code E (absent) will be used.

# Returning from a Fixed-Term Exclusion

Following a fixed-term exclusion, a reintegration meeting will be held involving the student, parents/carers, a member of senior staff and other staff, where appropriate.

The following measures may be implemented when a student returns from a fixed-term exclusion:

* Agreeing a personal support plan.
* Putting a student ‘on report’.
* Internal isolation.

# Monitoring Arrangements

The Assistant Headteacher with the responsibility for behaviour monitors the number of exclusions every term and reports back to the Headteacher. They also liaise with the LA to ensure suitable full-time education for excluded students.

# Links with other Policies

This exclusions policy is linked to our:

* Behaviour Policy
* SEN Policy and Information Report

**Equality Act 2010**

The school will follow the guidance in the Equality Act 2010 published by the ‘Equality and Human Rights Commission’ in Section 5.4 entitled ‘What equality law means for you as an educational provider’.

This guidance states that whilst a “school must not discriminate against a pupil by excluding them from school”, “it does not mean a school cannot exclude a pupil with a protected characteristic”. The guidance recognises that “there may be occasions when it is appropriate to exclude a pupil with a protected characteristic” it stresses it is important that a school does not exclude “because of” the protected characteristic.

**Alternatives to Exclusion**

The school will work closely with other local primary schools to undertake managed moves where such a course of action would be of benefit both to the pupil and the two schools concerned. The threat of a permanent exclusion will not be used as the means to persuade parents/carers to move their son/daughter to another school.

**Lunchtime Exclusion**

Pupils whose behaviour at lunchtime is disruptive may be excluded from the school premises for the duration of the lunchtime period. This will be treated as fixed term exclusion and parents will have the same right to gain information and to appeal.

**Behaviour Outside School**

Pupils’ behaviour outside school on school business, for example educational visits and journeys, away school sports fixtures is subject to the school’s Behaviour Policy. Inappropriate behaviour in these circumstances will be dealt with as if it had taken place in school.

If pupils’ behaviour outside of school is inappropriate and meets the school criteria for exclusion, then the Headteacher may decide to exclude.