



The Stanway School
Humanities and Maths & Computing College



The Stanway & TLA Suspension & Exclusion Policy

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Statement of intent




At The Stanway School and The Thomas Lord Audley School we understand that good behaviour and discipline is essential for promoting a high-quality of education.

Amongst other disciplinary sanctions, the school recognises that suspension and exclusion of pupils may be necessary where there has been a serious breach, or consistent breaches, of the school's Behaviour Policy. Excluding a pupil may also be required in instances where allowing the pupil to remain in school would be damaging to the education of others; in all cases, suspension and excluding pupils should only be used as a means of last resort.

The school has created this policy to clearly define the legal responsibilities of the headteacher, governing body and LA when responding to pupil suspensions or exclusions, in order to ensure that they are dealt with both fairly and lawfully, and in line with DfE statutory guidance.

This policy also aims to secure a pupil's right to an education despite having been suspended, by ensuring that appropriate arrangements are in place.

Signed by:

 _____	Headteacher, The Stanway School	Date: <u>20 September 2022</u>
 _____	Headteacher, Thomas Lord Audley School	Date: <u>20 September 2022</u>
 _____	Chair of governors	Date: <u>September 2022</u>

1. Legal framework

1.1. This policy has due regard to the related statutory legislation, including but not limited to, the following:

- The Education Act 2002 (As amended by The Education Act 2011)
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- The Education and Inspections Act 2006
- The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007 (As amended 2014)
- The European Convention on Human Rights (EHCR)
- The Equality Act 2010

1.2. This policy also has due regard to statutory and non-statutory guidance, including, but not limited to, the following:

- 'Suspension and permanent exclusion from maintained schools, academies and pupil referral units in England, including pupil movement'
- DfE (2016) 'Behaviour and discipline in schools'
- DfE (2015) 'Special educational needs and disability code of practice: 0 to 25 years'

1.3. This policy will be implemented in conjunction with the following school policies and procedures:

- Behavioural Policy (Expectation, Relationships and Behaviour Policy)
- Anti-Bullying Policy
- Pupil Code of Conduct

2. Grounds for suspension and exclusion

2.1. The school will only suspend or exclude a pupil where it is absolutely necessary, and where all other possible disciplinary sanctions, as detailed in the school's Behaviour Policy, have failed to be successful.

2.2. The following examples of behaviour may underline the school's decision to suspend or exclude a pupil:

Physical assault against a pupil
Physical assault against an adult
Verbal abuse / threatening behaviour against a pupil
Verbal abuse / threatening behaviour against an adult
Use or threat of use of an offensive weapon
Bullying
Racist abuse

Abuse against sexual orientation and gender identity
Abuse relating to disability
Sexual misconduct
Drug and alcohol related
Damage
Theft
Persistent disruptive behaviour
Inappropriate use of social media or online technology
Wilful and repeated transgression of protective measures in place to protect public health

2.3. Pupils can be suspended on a **fixed period basis**, i.e. up to 45 school days within a year, or **permanently excluded**. Similarly, suspensions can be converted into permanent exclusions where further evidence has been presented.

2.4. In all cases, the headteacher will decide the suspension period a pupil will be subject to, depending on what the circumstances warrant.

3. The headteacher's power to suspend and exclude

3.1. Only the headteacher has the power to suspend and exclude a pupil from the school, and is able to decide whether this is on a fixed period or permanent basis. All suspensions and exclusions will only be issued on disciplinary grounds.

3.2. The headteacher is able to exclude pupils from the premises where their behaviour is disruptive during lunchtime. All lunchtime suspensions will be counted as half of a school day.

3.3. The headteacher is able to consider a pupil who engages in disruptive behaviour outside of school premises as grounds for suspension and exclusion, in accordance with the school's Behaviour Policy.

3.4. Any decision made to exclude a pupil will be lawful, proportionate and fair, with respect to legislation relating directly to suspension and exclusions and the school's wider legal duties, including the European Convention on Human Rights (ECHR).

3.5. All suspension and exclusions will be formally recorded.

3.6. When sending a pupil home following any suspension, the headteacher will ensure that they exercise their duty of care at all times and will always inform the parents/carers.

3.7. The headteacher will apply the civil standard of proof when responding to the facts relating to a suspension or exclusion, i.e. that 'on the balance of probabilities' it is more likely than not that the facts are true.

- 3.8. The headteacher may withdraw any suspension that has not already been reviewed by the governing body.
- 3.9. At all times, the headteacher will take into account their legal duties under The Equality Act 2010 and the Special Educational Needs and Disability Code of Practice: 0 to 25 Years, ensuring that they do not discriminate on any grounds, e.g. race, sex, disability, and will not increase the severity of a pupil's suspension on these grounds.
- 3.10. The headteacher will not issue any 'informal' or 'unofficial' suspension, such as sending a pupil home to 'cool-off', regardless of whether or not the parents/carers have agreed to this.
- 3.11. The headteacher will not use the threat of suspension or exclusion as a means of instructing parents/carers to remove their child from the premises.
- 3.12. Where a headteacher is considering the permanent exclusion of a pupil he/she must consult with the CEO of the Trust first

4. Factors to consider when suspending or excluding a pupil

- 4.1. When considering the suspension of a pupil, the headteacher will:
 - Allow the pupil the opportunity to present their case.
 - Take into account any contributing factors that are identified after a case of poor behaviour has occurred, e.g. if the pupil's wellbeing has been compromised, or they have been subjected to bullying.
 - Take into consideration whether the pupil has received multiple suspension or is approaching the legal limit of 45 suspended days per school year, and whether suspension is serving as an effective sanction.
 - Consider early intervention to address underlying causes of disruptive behaviour, including liaising with external agencies, to assess pupils who demonstrate consistently poor behaviour.
- 4.2. The headteacher will consider what extra support may be available for vulnerable pupil groups whose suspension rates are higher, in order to reduce their risk of suspension, including the following:
 - Looked after children (LAC)
 - Pupils eligible for free school meals
 - Pupils with SEND
 - Those in the LGBTQ+ community
 - Certain ethnic groups
- 4.3. In light of the above, the headteacher will consider avoiding permanent exclusion for pupil groups who are particularly vulnerable to the impacts it would create for them.
- 4.4. Where any member of staff has concerns about vulnerable pupil groups and their behaviour, they will report this to the headteacher who will consider what extra support or alternative placement is required.

4.5. The headteacher will work in conjunction with the parents/carers of any pupil with additional needs, in order to establish the most effective support mechanisms.

1. Duty to inform parents/carers

4.6. Following the headteacher's decision to suspend or exclude a pupil, they will inform the parents/carers immediately, of the period of the suspension and the reasons behind this.

4.7. The headteacher will inform the parents/carers in writing, of the following:

- The reasons for the suspension/expulsion
- The length of the suspension, or, for a permanent exclusion, the fact that it is permanent
- Their right to raise any representations of the suspension or exclusion to the governing body, including how the pupil will be involved in this and how the representations will be made
- Their right to attend a meeting where there is a legal requirement for the governing body to consider the suspension or exclusion, and the fact that they are able to bring an accompanying individual
- The arrangements that have been made for the pupil to continue their education prior to the organisation of any alternative provision, or the pupil's return to school
- Relevant sources of free, impartial information

4.8. Where the pupil is of compulsory school age, the headteacher will inform the parents/carers by the end of the afternoon session that:

- For the first five days of the suspension, parents/carers are legally required to ensure that their child is not present in a public place during school hours without justification, and that parents/carers may receive a penalty fine if they fail to do so.

4.9. Where the headteacher has arranged alternative provision, they will also inform the parents/carers of the following:

- The start date for any provision of full-time education, including starting and finishing times
- The address at which the provision will take place
- Any information necessary for the pupil to identify the person they should report to on the starting date

4.10. Where the headteacher is unable to provide information on alternative provision by the end of the afternoon session, they will provide the information in a subsequent written notice without further delay, and within 48 hours of the pupil beginning the provision.

4.11. If the alternative provision is due to begin before the sixth day of suspension, the headteacher is able to give less than 48 hours of notice, with parental consent.

4.12. If the headteacher has decided to extend the pupil's suspension from a fixed period to permanent exclusion, they will notify the parents/carers of the reasons for this and any other important information.

5. Duty to inform the governing body and LA

5.1. The headteacher will inform the governing body and LA, without delay, of the following:

- Any permanent exclusions (including where a suspension has been extended to be permanent)
- Any suspensions which would result in the pupil being suspended for more than five school days in a term (or more than 10 lunchtimes)
- Any suspensions which would result in the pupil being absent from an examination or national curriculum test

5.2. For any suspensions or exclusions, other than those above, the headteacher will notify the governing body and LA once per term.

5.3. All notifications to the governing body and LA will include the reasons for suspension and the duration of any suspension.

5.4. If the pupil who is suspended lives outside the LA in which the school is located, the headteacher will notify the pupil's 'home authority'.

6. Arranging education for suspended pupils

6.1. For any suspension of more than five school days, the governing body will arrange suitable full-time education for the pupil, which will begin no later than the sixth day of suspension.

6.2. The governing body will not arrange full-time education for any pupil who is currently in their final year of compulsory education, and who does not have any further public examinations to sit.

6.3. The governing body is aware that it is beneficial to suspend pupils to begin their alternative education arrangements before the sixth day of suspension. The governing body will always attempt to arrange alternative provision before the sixth day of suspension.

6.4. Where it is not possible to arrange alternative provision during the first five days of suspension, the school will ensure that they take reasonable steps to set and mark work for the suspended pupil.

6.5. If a pupil with SEND has been suspended, the governing body will ensure that any alternative provision is arranged in consultation with the parents/carers, who are able to request preferences.

7. Considering suspensions or exclusions

- 7.1. The governing body, or a delegated committee, will consider any representations made by parents/carers in regard to suspension or exclusion.
- 7.2. Parents/carers, the headteacher and, where applicable, a member of the LA, will be invited to attend any consideration of suspension or exclusion and will be able to make representations.
- 7.3. Any meeting to consider a suspension or exclusion will be arranged at a date and time convenient for all parties, and in compliance with any statutory time limits.
- 7.4. The governing body will consider suspension and exclusions, and the reinstatement of the pupil, where:
 - The exclusion is permanent.
 - The suspension, and would bring the pupil's total number of suspended school days to more than 15 in any given term.
 - The suspension or exclusion would result in the pupil missing a public examination.
- 7.5. The governing body will consider suspension and exclusions within 50 school days of receiving notification, if requested by the parents/carers, where a pupil would be suspended for more than five school days per term, but not more than 15.
- 7.6. In the case of a suspension, where the pupil's total number of suspended school days does not amount to more than five, the governing body will consider any representations made by parents/carers, but will not be able to reinstate the pupil.
- 7.7. Where suspension or exclusion would result in a pupil missing a public examination, the governing body will consider the suspension or exclusion before the test to decide whether the pupil should be reinstated in time to take the examination.
- 7.8. In light of the above, the governing body will also consider whether it would be appropriate to allow the suspended pupil to enter the premises to take the examination.
- 7.9. When considering suspension and exclusions, the governing body will:
 - Only discuss the suspension or exclusion with the parties present at the meeting.
 - Ask for any written evidence prior to the meeting.
 - Circulate any written evidence and information to all parties, at least five school days in advance of the meeting.
 - Allow pupils and parents/carers to be accompanied by a person of their choice at the meeting.

- Consider what reasonable adjustments need to be made to support the attendance and contribution of parties at the meeting.
- Identify the steps needed to enable and encourage the suspended pupil to attend the meeting and speak on his/her behalf, or how he/she may contribute personal views by other means if attendance is not possible.
- Consider the interests and circumstances of the suspended or excluded pupil, including the grounds for suspension or exclusion.

8. Reaching a decision

8.1. After considering suspensions and exclusions, the governing body will either:

- Uphold a suspension or exclusion; or
- Reinstatement the pupil immediately, or on a specified date.

8.2. If reinstatement is not possible, e.g. if the pupil has already returned to school following a suspension, the governing body will consider whether the headteacher's decision to exclude the pupil was fair, lawful and proportionate, based on the evidence presented.

8.3. The governing body will apply the civil standard of proof when responding to the facts relating to an suspension or exclusion, i.e. that 'on the balance of probabilities' it is more likely than not that the facts are true.

8.4. In order to reach a decision, the governing body will:

- Identify the steps they intend to take to ensure that all parties involved will have the opportunity to participate and present their views.
- Ensure that minutes are taken of the meeting as a record of the evidence that was considered.
- Ask all parties to withdraw from the meeting before concluding their decision.
- Consider whether the suspension or exclusion of the pupil was lawful, proportionate and fair, taking into account the headteacher's legal duties.
- Record the outcome of the decision on the pupil's educational records, along with copies, which will be kept for at least six months.
- Make a note of their findings, where they have considered a suspension or exclusion but cannot reinstate the pupil.

9. Notification of considered suspensions or exclusions

9.1. The governing body will notify the parents/carers of the suspended or excluded pupil, the headteacher and the LA of their decision following the consideration of a suspension or exclusion, in writing and without delay.

9.2. If the governing body decides to make the exclusion permanent, they will notify the parents/carers:

- That it is permanent, and their right for it to be reviewed by an independent review panel.
- Of the date by which an application for review must be made.

- Of the name and address of whom the review application should be submitted to.
- That any application should set out the grounds on which it is being made and that, where appropriate, this should include reference to how a pupil's SEND are considered relevant to the suspension.
- That, regardless of whether a pupil has been identified as having SEND, the parents/carers have a right to require the governing body to ensure a SEND specialist attends the review.
- Of the role of the SEND expert that will attend the review, and that the parents/carers will not be charged for this.
- That they are required to make it clear if they wish for an SEND expert to attend the review.
- That they may appoint someone at their own expense to make representations to the panel.

9.3. The governing body will also notify parents/carers that if they believe a suspension has been issued as a result of discrimination then they are required to make a claim under The Equality Act 2010, and that this should be within six months of when the discrimination allegedly took place.

9.4. After any conclusion, the governing body will notify the parents/carers, and all other parties involved, of the decision that was made and the reasoning for this, in sufficient detail.

2. Removing pupils from the school register

9.5. The headteacher will remove pupils from the school register if:

- 15 school days have passed since the parents/carers were notified of the governing body's decision to uphold a permanent exclusion and no application for an independent panel review has been received.
- The parents/carers have stated in writing that they will not be applying for an independent panel review following a permanent exclusion.

9.6. If an application for an independent panel review has been made within 15 school days, the headteacher will wait until the review has been determined, or abandoned, before removing the pupil from the school register.

9.7. If a pupil's name has been removed from the register and a discrimination claim is made, the pupil may be reinstated following a decision made by the First-tier Tribunal Court.

9.8. Whilst a pupil's name remains on the admissions register, the appropriate code will be used to mark the pupil's attendance:

- Code B: Education off-site
- Code D: Dual registration
- Code E: Absent and not attending alternative provision

3. Independent Review Panel

- 9.9. The LA will review the governing body's decision not to reinstate a permanently excluded pupil, if the parents/carers submit their application for this within the required time frame.
- 9.10. Parents/carers are required to submit their applications within:
- 15 school days of the governing body's notification of their decision.
 - 15 school days of the final determination of a discriminatory claim made under The Equality Act 2010.
- 9.11. Any application made outside of this timeframe will not be reviewed.
- 9.12. Parents/carers are able to request an independent panel review even if they did not make a case to, or attend, the governing body's initial consideration of the suspension.
- 9.13. The LA will adhere to all statutory guidelines when conducting an independent panel review, as outlined in the DfE's statutory guidance document 'Suspension and permanent exclusion from maintained schools, academies and pupil referral units in England, including pupil movement'

10. Appointing a SEN expert

- 10.1. If requested by parents/carers in their application for an independent review panel, the Sigma Trust must appoint a SEN expert to attend the panel and cover the associated costs of this appointment.
- 10.2. The Sigma Trust must make arrangements to indemnify the SEN expert against any legal costs and expenses reasonably incurred as a result of any decisions or actions connected to the review and which are taken in good faith.
- 10.3. Parents/carers have a right to request the attendance of a SEN expert at a review, regardless of whether the school recognises that their child has SEN.
- 10.4. The SEN expert's role is set out in section 14 of this policy.
- 10.5. Individuals may not serve as a SEN expert if they have, or at any time have had, any connection with the Sigma Trust, The Thomas Lord Audley School or The Stanway School, parents or pupil, or the incident leading to the suspension or exclusion, which might reasonably be taken to raise doubts about their ability to act impartially; however, an individual is not taken to have such a connection solely because he/she is an employee of the Sigma Trust.
- 10.6. The SEN expert should be a professional with first-hand experience of the assessment and support of SEN, as well as an understanding of the legal requirements on schools in relation to SEND. Examples of suitable individuals might include educational psychologists; specialist SEN teachers; special educational needs coordinators (SENCOs); and behaviour support teachers.

Recently retired individuals are not precluded from fulfilling this role, though the The Sigma Trust would need to assure themselves that the individual has a good understanding of current practice and the legal requirements on schools in relation to SEN.

- 10.7. Whilst individuals are not automatically taken to be partial simply because they are an employee of, or contracted by, a The Sigma Trust, they should not have had any previous involvement in the assessment or support of SEN for the suspended pupil, or siblings of the suspended pupil. The Sigma Trust should request that prospective SEN experts declare any conflict of interest at the earliest opportunity.
- 10.8. The final decision on the appointment of an SEN expert is for the Sigma Trust to make, but it should take reasonable steps to ensure that parents/carers have confidence in the impartiality and capability of the SEN expert. Where possible, this may include offering parents/carers a choice of SEN expert. In order to meet its duties within the statutory time frame, the Sigma Trust should consider maintaining a list of individuals capable of performing the role of SEN expert in advance of a request.
- 10.9. It is for the Sigma Trust to determine the amount of any payment in relation to the appointment of the SEN expert, such as financial loss, travel and subsistence allowances.

11. The role of a SEN expert

- 11.1. The SEN expert's role is analogous to an expert witness, providing impartial advice to the panel on how SEN might be relevant to the suspension or exclusion. The SEN expert should base their advice on the evidence provided to the panel. The SEN expert's role does not include making an assessment of the pupil's SEN.
- 11.2. The focus of the SEN expert's advice should be on whether the school's policies which relate to SEN, or the application of these policies in relation to the suspended pupil, were legal, reasonable and procedurally fair. If the SEN expert believes that this was not the case they should, where possible, advise the panel on the possible contribution that this could have made to the circumstances of the pupil's suspension or exclusion.
- 11.3. Where the school does not recognise that a pupil has SEN, the SEN expert should advise the panel on whether they believe the school acted in a legal, reasonable and procedurally fair way with respect to the identification of any SEN that the pupil may potentially have, and any contribution that this could have made to the circumstances of the pupil's suspension or exclusion.
- 11.4. The SEN expert should not criticise a school's policies or actions simply because they believe a different approach should have been followed or because another school might have taken a different approach.

12. The duties of the Independent Review Panel members, the clerk and the SEN expert in the conduct of an independent review panel

12.1. The role of the panel is to review the governing body's decision not to reinstate a permanently excluded pupil. In reviewing the decision, the panel must consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and people working at the school.

12.2. The panel **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'.

12.3. Following the review, the panel can decide to:

- Uphold the decision;
- Recommend that the governing body reconsiders their decision; or
- Quash the decision and direct that the governing body considers the decision again.

12.4. The panel's decision can be unanimous and is binding on the pupil, parents, the governing body, headteacher, LA and The Sigma Trust

13. Reconsidering suspensions and exclusions following a review

13.1. Where the independent review panel instructs the governing body to review their suspension or exclusion decision, they will do so within 10 school days of being given notice of the review panel's decision.

13.2. The school is aware that if the governing body does not offer to reinstate the pupil, then the school will be required to make a payment of £4,000 directly to the LA in which the school is located.

13.3. If, following a reconsideration of an exclusion, the governing body offers to reinstate the pupil but the parents/carers decline, no adjustment will be made to the school's budget.

13.4. Following a reconsideration, the governing body will notify the parents/carers, the headteacher and, where necessary, the LA, of their reconsidered decision and the reasons for this.

14. Criminal investigations

14.1. The headteacher will not postpone taking a decision to exclude or suspend a pupil due to a police investigation being underway, or any criminal proceedings that are in place.

14.2. The headteacher will give particular consideration when deciding to exclude or suspend a pupil where evidence is limited by a police investigation, to ensure that any decision made is fair and reasonable.

14.3. If the governing body is required to consider the headteacher's decision in these circumstances, they will not postpone the meeting and will make a decision based on the evidence available.

15. Monitoring and review

15.1. This policy will be reviewed on an annual basis by the headteacher in conjunction with the governing body.

15.2. All members of staff are required to familiarise themselves with this policy as part of their induction programme.

Reviewing the Headteacher's Suspension or Exclusion Decision

