



# LAURENCE JACKSON SCHOOL

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## SUSPENSION AND EXCLUSION POLICY

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### DOCUMENT CONTROL

Review Date	Reviewer	Adopted	Implementation
August 2022	C Jukes	15.9.22	September 2022



# Inspiring Excellence – in learning and life

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# Suspension & Exclusion Policy

## PUBLIC

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## Statement of intent

At Laurence Jackson School, we are committed to providing the best educational experience we can for all students and understand that good behaviour and discipline is essential for promoting a high-quality education.

The school's ambition is to create high standards of behaviour so that our students are protected from disruption and can learn and thrive in a calm, orderly, safe, and supportive environment. We have established a range of focused strategies to encourage students to develop mature and responsible behaviour to support this ambition and for all students to achieve their personal best. These strategies are detailed in in our Behaviour Policy along with our rewards system section of the same Policy and are applied in a consistent manner by our staff.

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. Suspending or excluding a pupil may also be required in instances where allowing the pupil to remain in school would be damaging to the education and welfare of themselves or others; in all cases, suspending or 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 board and LA when responding to pupil suspensions and exclusions, 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 or excluded, by ensuring that appropriate arrangements are in place.

**A "suspension"** is defined as the temporary removal of a pupil from the school for behaviour management purposes. A pupil may be suspended for one or more fixed periods, up to a maximum of 45 school days in a single academic year. A suspension does not have to be for a continuous period.

**An "exclusion"** is defined as the permanent removal of a pupil from the school, in response to a serious breach or persistent breaches of the school's Behaviour Policy, and where allowing the pupil to remain in school would seriously harm the education or welfare of the pupils or staff in the school.

## Section 1

### Legal framework

The principal legislation to which this policy relates to:

- Education Act 1996
- Education Act 2002, as amended by the Education Act 2011
- Education and Inspections Act 2006
- 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
- Equality Act 2010
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- The European Convention on Human Rights (ECHR)

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

- DfE (2015) 'Special educational needs and disability code of practice: 0 to 25 years'
- DfE (2016) 'Behaviour and discipline in schools'
- DfE (2017) 'Exclusion from maintained schools, academies and pupil referral units in England'
- DfE (2018) 'Mental health and behaviour in schools'
- DfE (2022) 'Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement'
- DfE (2022) 'Behaviour in Schools'

This policy operates in conjunction with the following school policies:

- Behaviour Policy
- Anti-bullying Policy
- Pupil Code of Conduct
- Special Educational Needs and Disabilities (SEND) Policy
- Social, Emotional and Mental Health (SEMH) Policy
- Child Protection and Safeguarding Policy

### Duties under the Education and Inspections Act 2006

Under the Education and Inspections Act 2006, headteachers will determine measures to be taken with a view to:

- promoting, among pupils, self-discipline, and proper regard for authority,
- encouraging good behaviour and respect for others on the part of pupils and, in particular, preventing all forms of bullying among pupils,
- securing that the standard of behaviour of pupils is acceptable,
- securing that pupils complete any tasks reasonably assigned to them in connection with their education, and
- otherwise regulating the conduct of pupils.

Suspensions and exclusions can be used to help achieve these aims when they are absolutely necessary



## **Suspension & Exclusion Policy**

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### **Duties under the Equality Act 2010 and Children and Families Act 2014**

Under the Equality Act 2010 (the Equality Act), the schools must not discriminate against, harass, or victimise pupils because of: sex; race; disability; religion or belief; sexual orientation; pregnancy/maternity; or gender reassignment. For disabled children, this includes a duty to make reasonable adjustments to any provision, criterion or practice which puts them at a substantial disadvantage and the provision of auxiliary aids and services. In carrying out their functions, the public sector equality duty means schools

must also have due regard to the need to:

- eliminate discrimination, harassment, victimisation, and other conduct that is prohibited by the Equality Act;
- advance equality of opportunity between people who share a relevant protected characteristic and people who do not; and
- foster good relations between people who share a relevant protected characteristic and people who do not share it.

## Section 2

### **The headteacher's power to suspend and exclude**

Only the headteacher has the power to suspend or exclude a pupil from the school, and is able to decide whether either a suspension or exclusion is appropriate. All suspensions and exclusions will only be issued on disciplinary grounds.

Pupils can be suspended on a fixed-period basis, for up to a maximum of 45 school days within a year, or permanently excluded. The law does not allow for extending a suspension or 'converting' a suspension into a permanent exclusion. In exceptional cases, usually where further evidence has come to light, a suspension may be issued to begin immediately after the first period ends; or a permanent exclusion may be issued to begin immediately after the end of the suspension.

The headteacher is able to suspend pupils where their behaviour is disruptive during lunchtime. All lunchtime suspensions will be counted as half of a school day. The headteacher is also able to consider a pupil's disruptive behaviour outside of the school premises as grounds for suspension or exclusion, in accordance with the school's Behaviour Policy and in line with the principles of administrative law

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.

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

Any decision made to suspend or exclude a pupil will be lawful, proportionate and fair, with respect to legislation relating directly to suspensions and exclusions and the school's wider legal duties, including the ECHR. 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, or disability, and will not increase the severity of a pupil's suspension or exclusion on these grounds.

The headteacher may cancel any suspension or exclusion that has already begun; however, this power will only be used if the suspension or exclusion has not already been reviewed by the governing board. Where a suspension or exclusion is cancelled, the headteacher will notify the pupil's parents, the governing board, the LA, and, where relevant, the virtual school head (VSH) and the pupil's social worker. The headteacher will offer the pupil's parents the opportunity to meet with the headteacher to discuss the circumstances that led to the cancellation of the exclusion, and the pupil will be allowed back into school.

The headteacher will report the number of suspensions and exclusions that have been cancelled, alongside the circumstances around and reasons for cancellation, to the governing board once per term, to allow the governing board to have appropriate oversight.

The headteacher will not issue any 'informal' or 'unofficial' suspensions or exclusions, e.g. sending a pupil home to 'cool off', regardless of whether the parents have agreed to this. The headteacher will not use the threat of suspension or exclusion as a means of instructing parents to remove their child from the premises.

All suspensions and exclusions will be formally recorded on the school's pupil information system.

### **Suspensions:**

- A pupil may be suspended for one or more fixed periods (up to a maximum of 45 school days in a single academic year).
- A suspension can also be for parts of the school day e.g. behaviour at lunchtime is disruptive, they may be suspended from the school premises for the duration of the lunchtime period. Lunchtime suspensions are counted as half a school day
- A suspension may be used to provide a clear signal of what is unacceptable behaviour as part of the school's behaviour policy and show a pupil that their current behaviour is putting them at risk of permanent exclusion.
- Where suspensions are becoming a regular occurrence for a pupil, the headteacher and school will consider whether suspension alone is an effective sanction for the students and whether appropriate strategies need to be put in place to address behaviour.
- During a suspension, the Headteacher will take steps to ensure that work is set and marked for pupils during the first five school days of a suspension to ensure continuation of education.

### **Permanent exclusions**

A permanent exclusion is when a pupil is no longer allowed to attend a school (unless the pupil is reinstated). The decision to exclude a pupil permanently should only be taken:

- in response to a serious breach or persistent breaches of the school's behaviour policy; and
- where allowing the pupil to remain in school would seriously harm the education or welfare of the pupils or staff in the school.

For any permanent exclusion, the headteacher will take reasonable steps to ensure that work is set and marked for pupils during the first five school days where the pupil will not be attending alternative provision. Any appropriate referrals to support services will be considered or where a child has a social worker is open to other agencies there will be notified where appropriate

### **Grounds for suspension or exclusion**

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.

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

- A single, serious and major incident, e.g. serious assault on another individual leading to injury
- Physical assault against a pupil
- Physical assault against an adult
- Verbal abuse or threatening behaviour against a pupil
- Verbal abuse or threatening behaviour against an adult
- Use or threat of use of an offensive weapon or prohibited item that has been prohibited by the school's behaviour policy
- Bullying
- Discriminatory abuse, e.g. racist, homophobic, biphobic, transphobic or ableist abuse
- Constant disruption

This list is non-exhaustive and is intended to offer examples

## **Factors to consider when suspending or excluding a pupil**

When considering the suspension or exclusion of a pupil, the headteacher will:

- Allow the pupil the opportunity to present their case once evidence has been collected.
- 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 suspensions 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.

The headteacher will consider what extra support may be available for vulnerable pupil groups whose suspension and exclusion rates are higher, to reduce their risk of suspension or exclusion, including the following:

- LAC
- Pupils eligible for FSM
- Pupils with SEND
- Certain ethnic groups

The headteacher will consider avoiding excluding LAC, those with SEMH issues or pupils with an EHC plan. Where any member of staff has concerns about vulnerable pupil groups and their behaviour, they will report this to the headteacher, who will instigate a multi-agency assessment to determine whether the behavioural issues might be a result of educational, mental health or other needs and vulnerabilities. The full assessment procedures are outlined in the school's Social, Emotional and Mental Health (SEMH) Policy.

Where SEND or SEMH issues are identified, an individual behaviour plan may be created using the graduated response outlined in the school's Behaviour Policy. If the pupil continues to endanger the physical or emotional wellbeing of other pupils or staff, despite exhausting the graduated response process, then suspension or exclusion may be considered. In accordance with the Equality Act 2010, under no circumstances will a pupil with identified SEND or SEMH issues be suspended or excluded before the graduated response process has been completed.

Where a pupil with SEND or SEMH issues is excluded because of a SEND- or SEMH-related need that could not be met at the school, detailed records will be kept highlighting that these pupils are closely tracked and showing that the school has a close relationship with the pupil's next destination.

The headteacher and other senior staff will work in conjunction with the parents of any pupil with additional needs to establish the most effective support mechanisms.

## **Re-integration after reinstatement or off-site direction**

Following all suspensions and a period of being educated off-site the school will:

Arrange a re-integration meeting between:

- key school staff such as: senior staff members, pastoral staff, mentors, teachers,
- the student and parents, and

where relevant, other multi-agency organisations such as the safer schools team or the pupil's social worker, if they have one to ensure a successful return into mainstream school or other suitable provision. Whilst it is very important that parents attend these meetings, a pupil will not be prevented from returning to a mainstream classroom if parents are unable or unwilling to attend a re-integration meeting

The meeting will:

- Discuss reasons that led up to the sanction
- Agreeing targets and actions to prevent further behaviour incidents. These should include how the student can feel part of the community, gain success and prevent future incidents
- Agree any in-school / external support for the pupil
- Agree that the pupil reports to an identified member of staff daily and / or weekly
- Record the discussion and any agreed outcomes
- Consider a Behaviour contract or Behaviour Support Plan
- Agree to regular contact with parents to feedback

### **Preventative measure to school exclusion**

Before taking a final decision to exclude, the headteacher will consider whether it is in the best interests of all parties to initiate off-site directions or managed moves as preventative measures to exclusion.

The headteacher may consider:

- Off-site direction or
- Managed moves

### **Off-site Direction**

Off-site direction is **when a governing board requires a pupil to attend somewhere off-site** to receive education that is intended to improve their behaviour and should be used as short-term temporary support in another mainstream school or Alternative Provision. During this period they will be dual registered.

- The governing board will ensure that parents (and the local authority where the pupil has an Education, Health and Care (EHC) plan are notified in writing and provided with information
- about the placement including:
  - the length of placement
  - Overview of the broad and balanced curriculum
  - Support for behaviour
- The governing board will invite the parents, the local authority if the pupil has an EHC plan or other agencies is applicable such as youth offending team or social worker when review meetings takes place

Parents and where the pupil has an EHC plan, the local authority can request, in writing, that the governing board hold a review meeting. The governing boards will comply with the request as soon as reasonably practicable.

## Managed Moves

A managed move should be a permanent move, voluntary and agreed with all parties involved, including the parents and the admission authority of the new school and should only be offered as a permanent transfer only when the pupil has been attending the proposed new school under an off-site direction and a review of the direction has established that the pupil has settled well into the school and should remain there on a permanent basis.

## **Pupils with disabilities and Special Educational Needs (SEN)** including those with Education, Health and Care plans (EHC plans)

The Equality Act 2010 requires schools to make reasonable adjustments for disabled pupils. This duty can in principle apply both to the suspensions and permanent exclusions process and to the disciplinary sanctions imposed.

The school will:

- engage proactively with parents in supporting the behaviour of pupils with additional needs
- consider in partnership with others (and where relevant, the local authority) what additional support or alternative placement may be required if there are concerns about the behaviour, or risk of suspension and permanent exclusion, of a pupil with additional needs, a disability or an EHC plan
- contact the local authority, where a pupil has an EHC plan, about any behavioural concerns at an early stage and consider requesting an early annual review prior to making the decision to suspend or permanently exclude
- review, with external specialists as appropriate, whether the current support arrangements are appropriate and what changes may be required for those without an EHC plan. This may include requesting an EHC assessment or a review of the pupil's current package of support

## **Pupils who have a social worker**, including looked-after children, and previously looked-after children

We acknowledge that for children with a social worker, education is an important protective factor, providing a safe space for children to access support, be visible to professionals and realise their potential.

Where a pupil has a social worker, and they are at risk of suspension or permanent exclusion, the headteacher will inform their social worker, the Designated Safeguarding Lead (DSL) and the pupil's parents to involve them all as early as possible in relevant conversations.

Where a looked-after child (LAC) is likely to be subject to a suspension or permanent exclusion, the Designated Teacher (DT) will contact the local authority's Virtual School Head (VSH) as soon as possible. A meeting may be organised to consider what additional assessment and support needs to be put in place to help address the factors affecting the child's behaviour and reduce the need for suspension or permanent exclusion

All looked-after children with a Personal Education Plan (PEP) will have this reviewed every term and any concerns about the pupil's behaviour will be recorded, as well as any support to improve their behaviour and reduce the likelihood of exclusion being necessary.

## Section 3

### Duty to inform parents

Following the headteacher's decision to suspend or exclude a pupil, they will immediately inform the parents, in person or by telephone, supported by email communication, of the period of the suspension, or permanency of the exclusion, and the reasons behind this.

The headteacher will no later than 3 days inform the parents in writing (or electronically if written permission has been received from the parents for notices to be sent this way) of the following:

- The reasons for the suspension or exclusion
- The period of a suspension or, for a permanent exclusion, the fact that it is permanent
- Parents' right to make representations about the suspension or permanent exclusion to the governing board and how the pupil may be involved in this;
- how any representations should be made; and
- where there is a legal requirement for the governing board to consider the suspension or permanent exclusion, that parents or a pupil if they are 18 years old have a right to attend a meeting, to be represented at that meeting (at their own expense) and to bring a friend
- 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

Where the pupil is of compulsory school age, the headteacher will inform the parents by the end of the afternoon session that for the first five days of the suspension or exclusion (or until the start date of any alternative provision or the end of the suspension, where this is earlier), parents are legally required to ensure that their child is not present in a public place during school hours without justification, and that parents may receive a penalty fine if they fail to do so.

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

- the start date for any provision of full-time education that has been arranged for the child during the suspension or permanent 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 pupil to identify the person they should report to on the first day.

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

If the headteacher has decided to suspend the pupil for a further fixed period following their original suspension, or to permanently exclude them, they will notify the parents without delay and issue a new suspension or exclusion notice to parents.

When informing parents about an exclusion this will be done in person by telephone so that parents can ask any questions about the exclusion and make school aware of any concerns about the exclusion that has been issued so that these can be followed up by the Headteacher. If parents cannot be

contacted in person then email and/or text message will be used to communicate with them. The school will give sufficient details about the incident and sanction and that everything will be followed up in a letter. If the students has had several suspensions within the term, the parents will be informed of their of their right of representation to the governing board

### **Informing social workers and Virtual School Heads about an exclusion**

When a pupil who has a social worker has been suspended or excluded, the school will, without delay, notify either their named social worker or a duty social worker. If the student is a child in our care then the Headteacher for the relevant Virtual School will also be contacted. This notification will include the period of any suspension and the reasons for suspension or permanent exclusion. Social workers and/or the VSH will also be informed when a meeting of the governing board is taking place, and will be invited to attend the meeting should they wish to do so.

### **Duty to inform the governing committee and Local Authority**

The headteacher will inform the responsible governor and the Local Authority, without delay, of the following:

- Any permanent exclusions (including where a suspension is followed by a decision to permanently exclude the pupil)
- Any suspensions which would result in the pupil being suspended for more than 5 school days in a term (or more than 10 lunchtimes)
- Any suspensions or exclusions which would result in the pupil being absent from an examination or national curriculum test
- The headteacher will inform the LA of all suspensions or exclusions, regardless of their length, without delay.

For any suspensions and exclusions, other than those above, the headteacher will notify the governing board and LA once per term. All notifications to the governing board and Local Authority will include the reasons for suspension or exclusion and the duration of any suspension. If a pupil who is suspended or excluded lives outside the LA in which the school is located, the headteacher will notify the pupil's 'home authority'.

### **Arranging education for suspended and excluded pupils**

For a suspension of more than five school days the governing board will arrange suitable full-time education for any pupil of compulsory school age the governing committee which will begin no later than the sixth day of suspension. Where a pupil receives consecutive suspensions, these will be regarded as cumulative, and full-time education will still have to be provided from the sixth day of suspension. For exclusions, full-time education will be provided for the pupil from the sixth day of exclusion.

The governing committee 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.

The governing committee is aware that it is beneficial for suspended and excluded pupils to begin their alternative education arrangements before the sixth day of suspension or exclusion and will attempt to arrange alternative provision before the sixth day. Where it is not possible to arrange alternative provision during the first five days, the school will ensure that they take reasonable steps to set and mark work for the pupil.

The governing body will ensure that there are clear processes in place to comply with its legal duty to arrange suitable full-time educational provision, that attendance and behaviour is monitored (entering the correct code) and relevant safeguarding information is shared.

If a pupil with SEND has been suspended or excluded, the governing committee will ensure that:

- Any alternative provision is arranged in consultation with the pupil's parents, who are able to request preferences.
- When identifying alternative provision, any EHC plan is reviewed or the pupil's needs are reassessed, in consultation with the pupil's parents.

For permanent exclusions, the local authority must arrange suitable full-time education for the pupil to begin from the sixth school day after the first day the permanent exclusion took place

### **The governing board's duty to consider an exclusion**

In Laurence Jackson School, the governing committee (through a delegated sub-committee) will consider any representations made by parents regarding suspensions.

Parents and, where requested, a friend or representative, the headteacher, and a member of the LA will be invited to attend any consideration of suspensions and exclusions and will be able to make representations. Where it is appropriate to the pupil's age and level of understanding, the pupil will also attend any consideration meeting, and will be enabled to make a representation on their own behalf if they desire to do so.

Any meeting requested or required will be arranged at a date and time convenient for all parties, and in compliance with any statutory time limits.

In addition to this, the governing committee will always meet to review the suspension where:

- The exclusion is permanent.
- The suspension is fixed-period, 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.

In the case of a suspension where the pupil's total number of suspended days is more than 5 but less than 15 school days within a term, if requested by the parents, the governing board will consider suspensions within 50 school days of receiving notification. Where the pupil's total number of suspended school days does not amount to more than 5, in the absence of any such representations, the governing board is not required to meet and cannot direct the reinstatement of the pupil.

Where suspension or exclusion would result in a pupil missing a public examination, the governing board will consider the suspension or exclusion before the test to decide whether the pupil should be reinstated in time to take the examination.

If it is not practicable for a sufficient number of governors to consider the decision before the examination, a smaller sub-committee will consider the suspension or exclusion and decide whether or not to reinstate the pupil. The governing committee will also consider whether it would be appropriate to allow the suspended or excluded pupil to enter the premises to take the examination.

The following parties must be invited to a meeting of the governing board and allowed to make representations or share information:

- parents (and, where requested, a representative or friend);
- the headteacher;
- a representative of the local authority
- the child's social worker if the pupil has one; and
- the VSH if the child is LAC.

When considering the reinstatement of a pupil, the governing board 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.
- 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 pupil's SEN and the pupil's school record
- Allow pupils and parents to be accompanied by a person of their choice to 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 or excluded pupil to attend the meeting and speak on their behalf, or how they may contribute personal views by other means if attendance is not possible.
- Consider the interests and circumstances of the pupil, including the grounds for suspension or exclusion.

### Reaching a decision

After considering suspensions and exclusions, the governing board will either:

- Decline to reinstate the pupil.
- Direct the reinstatement of the pupil immediately, or on a specified date.

If reinstatement would make no practical difference, e.g. if the pupil has already returned to school following a suspension or the parents make clear they do not want their child reinstated, the governing board will still consider whether the pupil should be officially reinstated, and whether the headteacher's decision to suspend or exclude the pupil was fair, lawful and proportionate, based on the evidence presented.

The governing committee will apply the civil standard of proof when responding to the acts 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.

To reach a decision, the governing committee 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 and any evidence that was presented to the governing board in relation to the decision.
- 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.

## **Social workers and Virtual School Heads on attending the governing board meeting**

Social workers can:

- provide important information that helps the governing board understand the experiences of a pupil and their welfare.
- helping to identify how the pupil's circumstances may have influenced the circumstances of the pupil's suspension or permanent exclusion and ensuring that safeguarding needs and risks and the child's welfare are taken into account.

Virtual School Heads

- should, as far as possible, attend the governing board meeting to share information, where the pupil is a looked-after child
- assisting the governing board to understand the pupil's background and circumstances
- advise the board on the possible contribution that the pupil's circumstances could have made to the suspension or permanent exclusion

## **Notification of considered suspensions and exclusions**

The governing board will notify the parents of the suspended or excluded pupil, the headteacher, and the Local Authority of their decision following the consideration of a suspension or exclusion, in writing and without delay.

In the case of exclusion, where the governing board decides not to reinstate the pupil, they will notify the parents:

- That the exclusion is permanent.
- Of 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 is considered relevant to the exclusion.
- That, regardless of whether a pupil has been identified as having SEND, the parents have a right to require the governing board to ensure a SEND expert attends the review.
- Of the role of the SEND expert that will attend the review, and that the parents will not be charged for this.
- That they are required to make it clear if they wish for a SEND expert to attend the review.
- That they may appoint someone at their own expense to make representations to the panel.

The governing committee will also notify parents that, if they believe a suspension or exclusion has been issued as a result of discrimination, then they are required to make a claim under the Equality Act 2010 to the First-tier Tribunal (SEND), and that this should be within six months of when the discrimination allegedly took place.

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

## **Removing excluded pupils from the school register**

The headteacher will remove pupils from the school register if:

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

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, and until the governing board has completed any reconsideration that the panel recommended or directed it to carry out, before removing the pupil from the school register.

If a pupil's name is to be removed from the register, the headteacher will make a return to the Local Authority, which will include:

- All the particulars which were entered in the register.
- The address of any parent with whom the pupil normally resides.
- The grounds upon which the pupil's name is to be removed from the register.

Any return to the Local Authority, will be made as soon as the grounds for removal are met and no later than the date in which the pupil's name was removed.

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 (SEND) or County Court.

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

## **Independent review panel**

The Academy Trust will review the governing board's decision not to reinstate an excluded pupil if the parents submit their application for this within the required time frame.

Parents are required to submit their applications within:

- 15 school days of the governing board's notification of their decision.
- 15 school days of the final determination of a discriminatory claim made under the Equality Act 2010.

Any application made outside of the above timeframe will not be reviewed. Parents are able to request an independent panel review even if they did not make a case to, or attend, the governing board's initial consideration of the exclusion.

The Academy Trust will constitute an independent review panel of three or five members that represent the following categories:

- A lay member to chair the panel. This individual will not have worked in any school in a paid capacity
- A current or former school governor who has served for at least 12 consecutive months in the last 5 years
- A headteacher or individual who has been a headteacher within the last 5 years



## **Suspension & Exclusion Policy**

### **PUBLIC**

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The Academy Trust will adhere to all statutory guidelines when conducting an independent panel review, as outlined in the DfE's statutory guidance document 'Exclusion from maintained schools, academies and pupil referral units in England'.

### **Appointing a SEND expert**

If requested by parents in their application for an independent review panel, the Academy Trust will appoint a SEND expert to attend the panel and covers the associated costs of this appointment. Parents have a right to request the attendance of a SEND expert at a review, regardless of whether the school recognises that their child has SEND.

The Academy Trust will make arrangements to indemnify the SEND 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.

An individual will not serve as a SEND expert if they have, or at any time have had, any connection with the Academy Trust, school, parents or pupil, or the incident leading to the 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 they are an employee of the Academy Trust.

The SEND expert will be a professional with first-hand experience of the assessment and support of SEND, as well as an understanding of the legal requirements on schools in relation to SEND.

Whilst individuals are not automatically taken to be partial simply because they are an employee of, or contracted by, the Academy Trust, they will not have had any previous involvement in the assessment or support of SEND for the excluded pupil, or siblings of the excluded pupil. The Academy Trust will request that prospective SEND experts declare any conflict of interest at the earliest opportunity.

The final decision on the appointment of a SEND expert is for the Academy Trust to make, but it will take reasonable steps to ensure that parents have confidence in the impartiality and capability of the SEND expert. Where possible, this will include offering parents a choice of SEND expert. In order to meet its duties within the statutory time frame, the Academy Trust will consider maintaining a list of individuals capable of performing the role of SEND expert in advance of a request.

The Academy Trust will determine the amount of any payment in relation to the appointment of the SEND expert, such as financial loss, travel and subsistence allowances.

### **The role of the SEND expert**

The SEND expert's role is analogous to an expert witness, providing (orally and/or written) impartial advice to the panel on how SEND might be relevant to the exclusion. The SEND expert will base their advice on the evidence provided to the panel. The SEND expert's role does not include making an assessment of the pupil's SEND.

The focus of the SEND expert's advice will be on whether the school's policies which relate to SEND, or the application of these policies in relation to the excluded pupil, were legal, reasonable and procedurally fair. If the SEND expert believes that this was not the case, they will, where possible, advise the panel on the possible contribution this could have made to the circumstances of the pupil's exclusion.

Where the school does not recognise that a pupil has SEND, the SEND expert will 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 SEND that the pupil may potentially have, and any contribution that this could have made to the circumstances of the pupil's exclusion.

The SEND expert will 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.

### Appointing a clerk

The Academy Trust will decide whether to appoint a clerk to the independent review panel, or to make alternative arrangements to administer the panel.

Where a clerk is appointed, the Academy Trust will ensure that the clerk did not serve as clerk to the governing board when the decision was made not to reinstate the pupil.

### The role of a clerk

The clerk's role is to provide advice to the panel and parties to the review on procedure, law and statutory guidance on exclusions.

The clerk will:

- Make reasonable efforts to inform the following people that they are entitled to: make written representations to the panel; attend the hearing and make oral representations to the panel; and be represented:
  - a. the parents or pupil if they are 18 years old;
  - b. the headteacher;
  - c. the governing board
- Make reasonable efforts to circulate to all parties copies of relevant papers at least 5 school days before the review. These papers must include:
  - a) the governing board's decision;
  - b) the parents' application for a review; and
  - c) any policies or documents that the governing board was required to have regard to in making its decision.
- Give all parties details of those attending and their role, once the position is clear.
- Attend the review and ensure that minutes are produced in accordance with instructions from the panel.
- Identify, in advance of the meeting, whether the excluded pupil wishes to attend the panel hearing, taking reasonable steps to enable the pupil to feedback their views, irrespective of their attendance.
- Identify, in advance of the meeting, whether any alleged victims of the incident(s) leading up to the exclusion wish to attend the panel hearing, taking reasonable steps to enable them to feedback their views, irrespective of their attendance.
- Ensure that the panel is able to hear from any witnesses to the incident(s) leading to the exclusion, taking into account the fact that some of these people may be pupils at the school. Pupils under 18 will not be allowed to appear in person without parental consent.
- Ensure that all parties are:
  - Provided with copies of relevant papers at least five school days before the review, notifying the panel if any requested documents have not been provided in case the panel wishes to adjourn until a later date.
  - Informed about who is attending the meeting, and what their roles are.

Where a clerk is not appointed, the Academy Trust will undertake the functions outlined above.

## **The duties of the independent review panel**

The role of the panel is to review the governing board's decision not to reinstate an excluded pupil. In reviewing the decision, the panel will 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. The panel will apply the civil standard of proof, rather than the criminal standard of 'beyond reasonable doubt'.

Following the review, the panel will do one of the following:

- Uphold the decision
- Recommend that the governing board reconsiders reinstatement
- Quash the decision and direct that the governing board reconsiders reinstatement

The panel's decision does not have to be unanimous and can be decided by a majority vote. It is binding on the pupil, parents, governing board, headteacher and LA.

New evidence may be presented to the panel, though the school may not introduce new reasons for the permanent exclusion or for the decision not to reinstate the pupil and the panel must disregard any new reasons that are introduced.

Where a SEN expert is present, the panel must seek and have regard to the SEN expert's view of how SEN may be relevant to the pupil's permanent exclusion.

Where a social worker is present, the panel will seek and have regard to the social worker's view of how the pupil's experiences, needs, safeguarding risks and/or welfare may be relevant to the pupil's permanent exclusion.

Where a Virtual School Head (VSH) is present, the panel will seek and have regard to the VSH's view of how any of the child's background, educational and safeguarding needs were considered by the headteacher in the lead up to the permanent exclusion or relevant to the pupil's permanent exclusion.

The panel may adjourn on more than one occasion, if necessary. A review cannot continue if the panel no longer has representation from each of the three categories of members required. Once a review has begun, no panel member may be substituted by a new member for any reason.

The chair will outline the procedure to be followed and explain to all parties that the panel is independent of the school, the local authority and the academy trust. The panel will decide whether any witnesses should stay after giving evidence for the rest of the review, but they should not be present before giving evidence. If the SEN expert has been requested but is not present, the panel will make parents aware of their right to request that the review is adjourned until such time as a SEN expert can attend. The panel should ask everyone, apart from the clerk, to withdraw before the panel makes a decision.

The focus of the panel's decision is whether there are sufficient grounds for them to direct or recommend that the governing board reconsider its decision that the pupil should not be reinstated.

When considering the governing board's decision in light of the principles applicable in an application for judicial review, the panel will apply the following tests:

- Illegality – did the governing board act outside the scope of its legal powers in deciding that the pupil should not be reinstated?
- Irrationality – did the governing board rely on irrelevant points, fail to take account of all relevant points, or make a decision so unreasonable that no governing board acting reasonably in such circumstances could have made it?
- Procedural impropriety – was the governing board's consideration so procedurally unfair or flawed that justice was clearly not done?

Following the review, the panel must issue written notification to all parties without delay. This notification must include:

- the panel's decision and the reasons for it;
- where relevant, details of any financial readjustment/payment to be made if a governing board does not subsequently decide to offer to reinstate a pupil within ten school days; and
- any information that the panel has directed the governing board to place on the pupil's educational record.

### **Reconsidering reinstatement following a review**

Where the independent review panel instructs the governing board to reconsider their decision not to reinstate a pupil, they will do so within 10 school days of being given notice of the review panel's decision.

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

Where the independent review panel recommends that the governing board should reconsider their decision not to reinstate a pupil, they will do so within 10 school days of being given notice of the review panel's decision. The school is aware that if, following a recommendation to reconsider, the governing board does not offer to reinstate the pupil, it will not be subject to a financial adjustment. If, following reconsideration, the governing board offers to reinstate the pupil but the parents decline, no adjustment will be made to the school's budget.

In the case of either a recommended or directed reconsideration, the governing board must notify the following people of their reconsidered decision, and the reasons for it, in writing and without delay:

- the parents;
- the headteacher;
- the local authority; and, where relevant, the 'home authority'.

### **Criminal investigations**

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

Particular consideration will be given by the headteacher when deciding to suspend or exclude a pupil where evidence is limited by a police investigation, to ensure that any decision made is fair and reasonable.

If the governing committee 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

## Training requirements

The LA will ensure that all independent review panel members and clerks have received training within the two years prior to the date of the review. Training will cover:

- The requirements of the legislation, regulations and statutory guidance governing suspensions and exclusions.
- The need for the panel to observe procedural fairness and the rules of natural justice.
- The role of the chair of a review panel.
- The role of the clerk to a review panel.
- The duties of headteachers, governing boards and the panel under the Equality Act 2010.
- The effect of section 6 of the Human Rights Act 1998 and the need to act in a manner compatible with human rights protected by that Act.

Clerks will also have an up-to-date understanding on developments in case law which are relevant to suspension and exclusion.

## Using Data

The headteacher will ensure that all data regarding suspensions and exclusions is collected and provided to the governing board on a termly basis. The governing board will review this data regularly in order to:

- Consider the level of pupil moves and the characteristics of pupils who are moving on any permanent exclusions to ensure that this is only being used as a last resort.
- Gather information on pupils who are taken off the roll and those who are on the roll but attending education off-site.
- [MATs only] Determine whether there are any patterns of suspensions and exclusions across the trust.
- Consider the effectiveness and consistency in implementing the Behaviour Policy.
- Understand any variations in the rolling average of permanent exclusions to ensure they are only used when necessary.
- Understand the characteristics of suspended and excluded pupils and evaluate equality considerations.
- Gather information on where pupils are receiving repeat suspensions.
- Evaluate interventions in place to support pupils at risk of suspension and exclusion, including where there are patterns which may indicate that certain policies and support measures are or are not working.
- Analysing whether the placements of pupils directed off-site into alternative provision are reviewed at sufficient intervals to assure that the education is achieving its objectives.

## Monitoring and review

This policy will be reviewed annually by the headteacher in conjunction with the governing board. The next scheduled review date for this policy is September 2023.

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

## Appendix 1

### Roles and Responsibilities

<p><b>The Local Authority is responsible for:</b></p>	<ul style="list-style-type: none"> <li>• Having due regard to the relevant statutory guidance when carrying out its duties in relation to the education of LAC.</li> <li>• Arranging suitable full-time education for any pupil of compulsory school age excluded permanently, in coordination with the school.</li> <li>• Reviewing and reassessing pupils' needs in consultation with their parents where they have an EHC plan and are excluded permanently, with a view to identifying a new placement.</li> </ul>
<p><b>The Trust is responsible for:</b></p>	<ul style="list-style-type: none"> <li>• Arranging for an independent review panel hearing to review the decision of the governing committee not to reinstate a permanently excluded pupil where required.</li> </ul>
<p><b>The Local Governing Committee is responsible for:</b></p>	<ul style="list-style-type: none"> <li>• Providing information to the Secretary of State and LA about any suspensions and exclusions within the last 12 months.</li> <li>• Arranging suitable full-time education for any pupil of compulsory school age who is suspended.</li> <li>• Considering parents' representations about suspensions and exclusions within 15 school days of receiving notice if the appropriate requirements are met.</li> <li>• Where a suspension or exclusion would result in a pupil missing a public examination or test, considering the suspension or exclusion before this date.</li> <li>• Considering whether it would be appropriate for a pupil to be permitted onto the school premises to sit the public examination or test.</li> <li>• Arranging the representation meeting at a time and date convenient to all parties, but in compliance with the statutory time limits.</li> <li>• Adhering to its responsibilities to consider the reinstatement of pupils.</li> <li>• Considering the interests and circumstances of the suspended or excluded pupil, including the circumstances in which they were suspended or excluded, and have due regard to the interests of others at the school.</li> <li>• Using the civil standard of proof (based on the 'balance of probabilities', it is more than likely that the fact is true) when establishing the facts relating to a suspension or exclusion.</li> <li>• Ensuring clear minutes are taken of the representation meeting.</li> <li>• Noting the outcome of the representation meeting on the pupil's education record, along with copies of relevant papers for future reference.</li> <li>• Notifying the pupil's parents, the headteacher and LA of its decision and the reasons for it, without delay.</li> <li>• Appointing a clerk to provide advice to the relevant panel and parties to the review on procedure, law and statutory guidance on suspensions and exclusions.</li> <li>• Where appropriate, informing parents of where to apply for an independent review panel.</li> <li>• Informing parents of relevant sources of information.</li> <li>• Ensuring a pupil's name is removed from the school admissions register, where appropriate.</li> </ul>

	<ul style="list-style-type: none"> <li>• Reconvening within 10 school days to reconsider reinstatement of a pupil where directed to do so by the suspensions and exclusions review panel.</li> <li>• Using data to evaluate the school's practices regarding intervention, suspension and exclusion.</li> </ul>
<p><b>The clerk to the suspensions and exclusions review panel is responsible for:</b></p>	<ul style="list-style-type: none"> <li>• Informing the appropriate individuals that they are entitled to: <ul style="list-style-type: none"> <li>○ Make written representations to the panel.</li> <li>○ Attend the hearing and make oral representations to the panel.</li> <li>○ Be represented.</li> </ul> </li> <li>• Circulating copies of relevant papers at least five school days before the review to all parties.</li> <li>• Giving all parties details of those attending and their role, once the position is clear.</li> <li>• Attending the review and ensuring that minutes are produced in accordance with instructions from the panel within the timeframe of the policy.</li> </ul>
<p><b>The headteacher is responsible for:</b></p>	<ul style="list-style-type: none"> <li>• Implementing good levels of discipline to ensure all pupils can benefit from the opportunities provided by education and to minimise potential suspensions and exclusions.</li> <li>• [Updated] Applying the civil standard of proof when establishing the facts in relation to a suspension or exclusion.</li> <li>• Complying with their statutory duties in relation to pupils with SEND when administering the suspension or exclusion process, as outlined in the Special Educational Needs and Disabilities (SEND) Policy.</li> <li>• Considering any contributing factors that are identified after an incident of poor behaviour has occurred, e.g. if a pupil has suffered bereavement, experienced bullying or has a mental health issue.</li> <li>• Considering the use of a multi-agency assessment for a pupil who demonstrates persistent disruptive behaviour.</li> <li>• Reviewing the effectiveness of suspensions and exclusions as sanctions, e.g. if a pupil has received multiple suspensions or is approaching the legal limit for suspensions in an academic year.</li> <li>• Considering what extra support may be needed to identify and address the needs of individual pupils, particularly those with SEND, those eligible for FSM, LAC and those from certain ethnic groups.</li> <li>• Engaging effectively with parents in supporting the behaviour of pupils with additional needs.</li> <li>• Determining whether a pupil will be suspended or excluded on disciplinary grounds.</li> <li>• Withdrawing any suspensions or exclusions that have not been reviewed by the governing board, where appropriate.</li> <li>• Ensuring any decision to suspend or exclude is lawful, rational, reasonable, fair and proportionate.</li> <li>• Complying with the requirements of the Equality Act 2010 when deciding whether to suspend or exclude a pupil.</li> <li>• Ensuring they have considered their legal duty of care when sending a pupil home following a suspension or exclusion.</li> <li>• Making the decision to suspend or exclude based on the evidence available at the time, regardless of any police investigation and/or criminal proceedings.</li> <li>• Notifying a pupil's parents without delay where the decision is taken to suspend or exclude the pupil, including the days on which the parents</li> </ul>

	<p>must ensure the pupil is not present in a public place at any time during school hours, as well as any other necessary information statutorily required.</p> <ul style="list-style-type: none"><li>• Ensuring that all information provided to parents is clear and easily understood.</li><li>• [Updated] Notifying the governor responsible and LA of their decision to exclude a pupil where appropriate, as well as the pupil's home authority if required.</li><li>• [Updated] Notifying the governing board once per term of any exclusions in the headteacher's report to governors.</li><li>• Organising suitable work for excluded pupils where alternative provision cannot be arranged.</li></ul>
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## Appendix 2

### Flowchart for reviewing the headteacher's suspension or exclusion decision

