

# Suspensions and Permanent Exclusions Policy

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The Trust requires everyone to show respect, tolerance and understanding towards others. These principles are underpinned by our ethos which is outlined to students and parents as part of our culture in our schools.

The Trust will adopt a series of high expectations of behaviour, based on individual responsibility and mutual respect in order to generate an environment where positive relationships between students and staff and students are encouraged to flourish.

Decisions to suspend a student for a fixed term period will only be taken on the balance of probabilities in response to breaches in the school's behaviour policy, including persistent disruptive behaviour.

Decisions to permanently exclude a student will only be taken in response to serious breaches of the school's behaviour policy and if the decision for the student to remain would seriously harm the education or welfare of another student or others.

A decision to exclude a student permanently is recognized by the Trust as serious one. It will usually be the final step in a process for dealing with disciplinary offences following a wide range of other strategies which have been tried without success.

There will, however, be exceptional circumstances which in the Headteachers judgment may result in permanent exclusion as a result of a first or 'one off' offence. The following list is not exhaustive but is indicative of the severity of offences that may lead to permanent exclusion:

- supplying or taking an illegal drug
- supplying or drinking alcohol
- serious actual or threatened violence against another student or member of staff
- carrying an offensive weapon, for example, a knife, scissors, a hammer, with intent to threaten or harm
- abuse against sexual orientation or gender reassignment
- assault of a student or member of staff
- ongoing persistent bullying (including cyber)
- damage to property

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<b>Last reviewed on:</b>	Next review date:

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## 1. Aims

Our Trust aims to ensure that:

- The exclusions process is applied fairly and consistently
- The exclusions process is understood by governors, staff, parents and pupils
- Pupils and staff in school are safe and happy
- Pupils do not become NEET (not in education, employment or training)

## 2. Legislation and statutory guidance

This policy is based on statutory guidance from the Department for Education: Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England including pupil movement (September 2022).

It is based on the following legislation, which outline schools' powers to exclude pupils:

- Section 52 of the Education Act 2002, as amended by the Education Act 2011
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- Sections 64-68 of the School Standards and Framework Act 1998 In addition, the policy is based on:
- Part 7, chapter 2 of the Education and Inspections Act 2006, which looks at parental responsibility for excluded pupils
- Section 579 of the Education Act 1996, which defines 'school day'
- 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

The policy considers:

- Behaviour in Schools guidance
- Keeping Children Safe In Education
- Mental Health and behaviour in schools
- Understanding Your Data: a guide for school governors and academy trustees This policy complies with our funding agreement and articles of association.

## 3. The decision to suspend or exclude

Only the headteacher, or acting headteacher, can suspend or permanently exclude a pupil from school. A permanent exclusion will be taken as a last resort.

Our Trust is aware that off-rolling is unlawful. Ofsted defines off-rolling as:

"...the practice of removing a pupil from the school roll without a formal, permanent exclusion or by encouraging a parent to remove their child from the school roll, when the removal is primarily in the interests of the school rather than in the best interests of the pupil."

We are committed to following all statutory exclusions procedures to ensure that every child receives an education in a safe and caring environment.

A decision to permanently exclude a pupil will be taken only:

- In response to serious or persistent breach (a serious one-off incident) or breaches (repeated or persistent incidents) of the school's behaviour policy and if allowing the pupil to remain in school would seriously harm the education or welfare of others. (These are the two legal tests) Before deciding whether to suspend or permanently exclude a pupil the headteacher will:
- Consider all the relevant facts and evidence, including whether the incident(s) leading to the suspension or exclusion were provoked
- Allow the pupil to give their version of events
- Consider if the pupil has special educational needs (SEN)

## **4. Definitions and clarifications**

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.

Only the headteacher of a school can suspend or permanently exclude a pupil on disciplinary grounds.

A pupil may be suspended for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or permanently excluded.

Suspensions can be parts of a school day e.g. lunchtime. A lunchtime suspension counts as half a day.

The law does not allow a suspension to be amended to a permanent exclusion except under exceptional circumstances.

A pupil's behaviour outside school can be considered grounds for a suspension or permanent exclusion. All suspensions, however short in duration, must be formally recorded.

The headteacher need not postpone taking a decision on a suspension and permanent exclusion solely because a police investigation is underway and/or any criminal proceedings may be brought. In such circumstances, the headteacher will need to take a decision on the evidence available to them at the time. Where the evidence is limited by a police investigation or criminal proceedings, the headteacher should consider any additional steps they may need to take to ensure that the decision to suspend or permanently exclude is fair. However, the final decision on whether to suspend or permanently exclude is for the headteacher to make.

## **5. Roles and responsibilities**

### **5.1 The headteacher**

#### **Informing parents**

The headteacher will, without delay, provide the following information, in writing, to the parents of a suspended or excluded pupil:

- The reason(s) for the suspension or exclusion
- The length of a suspension or, for a permanent exclusion, the fact that it is permanent

- Information about parents' right to make representations about the exclusion to the governing board and how the pupil may be involved in this
- How any representations should be made
- Where there is a legal requirement for the governing board to meet to consider the reinstatement of a pupil, and that parents have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend

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

- The start date for any provision of full-time education that has been arranged
- 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
- Any information required by the pupil 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 day, 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' consent.

### **Informing the governing board**

The headteacher will, without delay, notify the governing board) of:

- A permanent exclusion.
- Suspensions which would result in the pupil being excluded for more than 5 school days (or more than 10 lunchtimes) in a term
- Exclusions which would result in the pupil missing a public examination
- For all other exclusions, the headteacher will notify the governing board once a term.

### **Informing the local authority**

- The local authority must be informed without delay of all school suspensions and exclusions, regardless of the length of the exclusion.
- For a permanent exclusion, if the pupil lives outside the local authority area in which the school is located, the headteacher must also notify the pupil's 'home authority' of the permanent exclusion and the reason(s) for it without delay.

### **Informing social workers and virtual school headteacher**

Where a pupil has a social worker, e.g., because they are the subject of a Child in Need Plan or a Child Protection Plan, and they are at risk of suspension or permanent exclusion, the headteacher should 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) should contact the local authority's VSH as soon as possible. The VSH, working with the DT and others, should consider what additional assessment and support need to be put in place to help the school address the factors affecting the child's behaviour and reduce the need for suspension

or permanent exclusion. Where relevant, the school should also engage with a child's social worker, foster carers, or children's home workers.

### **Informing Education South West (ESW)**

Head teachers are asked to inform ESW central staff (the CEO, Education Director) of their intention to permanently exclude a pupil. As part of school improvement, they are asked to make available to staff, data and information relating to suspensions and exclusions.

## **5.2 The governing board**

Responsibilities regarding exclusions is delegated to the student disciplinary sub committee

The governing board has a duty to consider the reinstatement of an excluded pupil (see section 6)

For a fixed-period suspension of more than 5 school days, the governing board will arrange suitable fulltime education for the pupil. This provision will begin no later than the sixth day of the exclusion.

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

Governing boards will challenge and evaluate what their school's data is telling them about their school. Boards will carefully consider the level of pupil moves and the characteristics of pupils who are moving on any permanent exclusions to ensure the sanction is only used when necessary, as a last resort.

## **5.3 The 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.

## **6. Remote Meetings**

Parents and/or carers can request that the meetings are held virtually. Wherever possible meetings will be physical hearings but it will be the wishes of the parent that determine the options open to the school in respect of the format for the hearing.

## **7. Cancelling exclusions or considering the reinstatement of a pupil**

### **7.1 Cancelling exclusions**

The headteacher may cancel any exclusion that has already begun, but this should only be done where it has not yet been reviewed by the governing board. Where an exclusion is cancelled, then:

- Parents, the governing board, and the LA should be notified without delay and, if relevant, the social worker and VSH;
- Any days the pupil was excluded before it was cancelled count towards the maximum 45 days of suspension in any school year. If the pupil was permanently excluded and would go over the 45-day limit after counting the period they have been excluded before it would be cancelled, then the exclusion cannot be cancelled.
- Parents should be offered the opportunity to meet with the headteacher to discuss the circumstances that led to the exclusion being cancelled;

- Schools should report to the governing board once per term on the number of exclusions which have been cancelled. This should include the circumstances and reasons for the cancellation enabling governing boards to have appropriate oversight and;
- The pupil should be allowed back into school.

## 7.2 Considering the reinstatement of a pupil

The governing board will consider the reinstatement of an excluded pupil within 15 school days of receiving the notice of the exclusion if:

- The exclusion is permanent
- It is a fixed-term suspension which would bring the pupil's total number of school days of suspension to more than 15 in a term
- It would result in a pupil missing a public examination

If requested to do so by parents, the governing board will consider the reinstatement of a suspended pupil within 50 school days of receiving notice of the suspension if the pupil would be suspended from school for more than 5 school days, but less than 15, in a single term.

Where an exclusion would result in a pupil missing a public examination, the governing board will consider the reinstatement of the pupil before the date of the examination.

The governing board can either:

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

In reaching a decision, the governing board 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 pupil's educational record.

The governing board will notify, in writing, the headteacher, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the governing board's decision will also include the following:

- The fact that it is permanent
- Notice of parents' 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 pupil's SEN are considered to be relevant to the exclusion
  - That, regardless of whether the excluded pupil has recognised SEN, parents 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 for this appointment
  - That parents must make clear if they wish for an SEN expert to be appointed in any application for a review
  - That parents may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents may also bring a friend to the review
- That if parents 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.
- ESW expects the chair of the meeting to be the chair of another school's governing body.

## 8. An independent review

If parents apply for an independent review, the Trust will arrange for an independent panel to review the decision of the governing board not to reinstate a permanently excluded pupil.

Applications for an independent review must be made within 15 school days of notice being given to the parents by the governing board of its decision to not reinstate a pupil.

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 governors 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 governors (ideally from other ESW schools) who have served as a governor 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/director of the Trust, or governing 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 governing 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, governing board, parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality
- 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 governing board's decision
- Recommend that the governing board reconsiders reinstatement
- Quash the governing 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.

## 9. School registers

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

- 15 school days have passed since the parents were notified of the exclusion panel's decision to not reinstate the pupil and no application has been made for an independent review panel, or
- The parents 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 governing board will wait until that review has concluded before removing a pupil's name from the register.

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

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

## 10. Returning from a fixed-term suspension

Following a suspension, a re-integration meeting will be held involving the pupil, parents, a member of pastoral and/or senior staff, as appropriate.

The following measures may be implemented when a pupil returns from a fixed-term suspension:

- Completing re-integration form which outlines targets and support for the student to offer the student a fresh start and reduce the risk of reoffending.
- Consideration of planning a review of any PSP, BCP, referral onto outside agencies.
- Consideration of a referral to the school counsellor.
- Plan a restorative meeting, when appropriate, with staff or students.
- Regular reviews with the pupil and parents to praise progress being made and raise and address any concerns at an early stage; Time in internal exclusion if appropriate.
- A risk assessment, if required.

## 11. Monitoring arrangements

A member of senior leadership team monitors the number of exclusions every term and reports back to the Headteacher/SLT. They also liaise with the local authority to ensure suitable full-time education for excluded pupils.

Governing boards will challenge and evaluate what their school's data is telling them about their school.. Boards should carefully consider the level of pupil moves and the characteristics of pupils who are moving on any permanent exclusions to ensure the sanction is only used when necessary, as a last resort.

Education South West will monitor suspensions and exclusions as part of the school improvement support and challenge process.

This policy will be reviewed by the Headteacher/SLT every two years. At every review, the policy will be shared with the governing board.

## 11. Links with other policies

This exclusions policy is linked to our: -

- Behaviour policy
- SEN policy
- Equalities policy

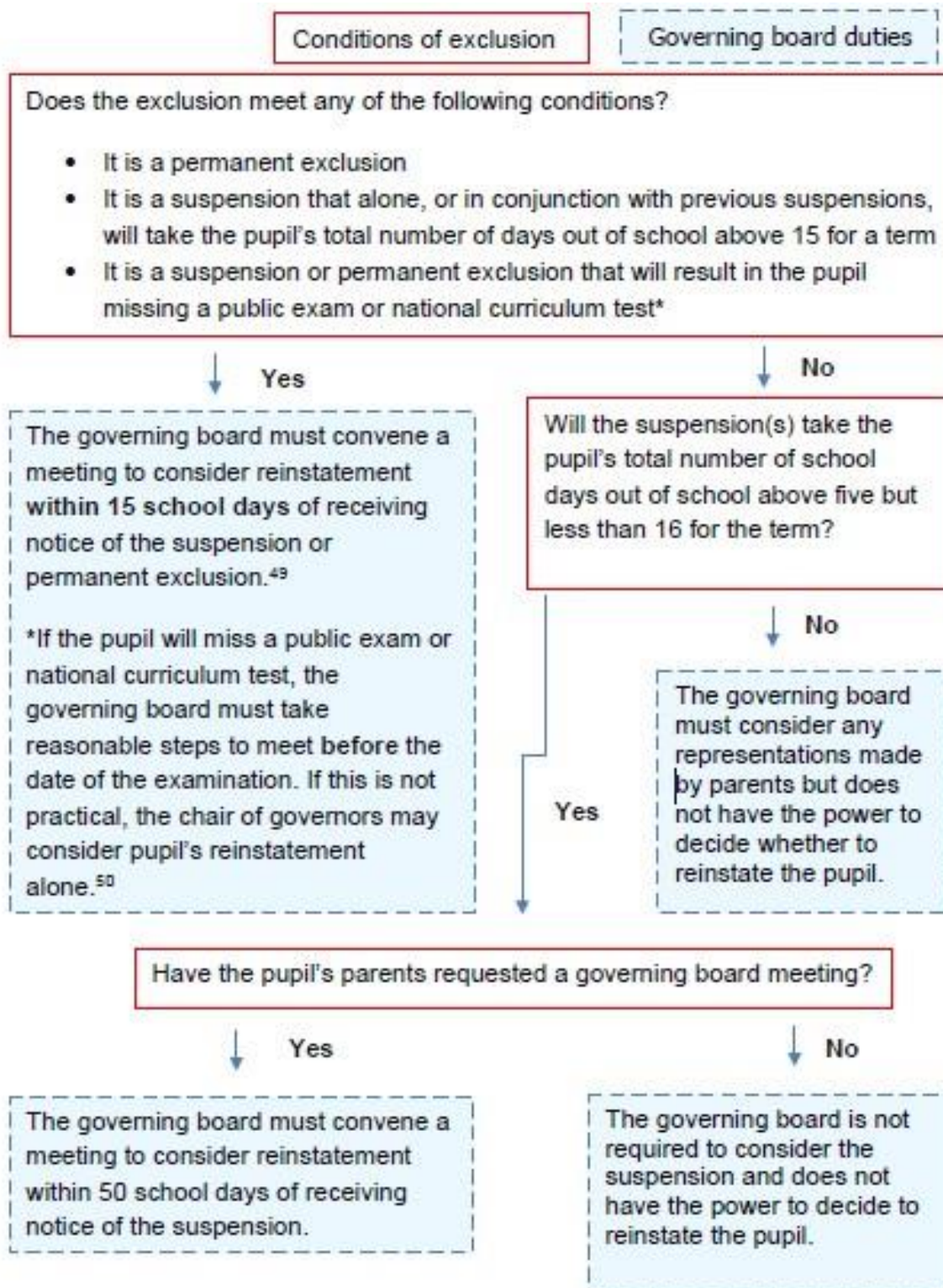
## Appendix 1: Independent review panel training

The Trust must ensure that all members of an independent review panel and clerks have received training within the 2 years prior to the date of the review.

Training must have covered:

- The requirements of the primary legislation, regulations and statutory guidance governing exclusions, which would include an understanding of how the principles applicable in an application for judicial review relate to the panel's decision making
- The need for the panel to observe procedural fairness and the rules of natural justice
- The role of the chair and the clerk of 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 (acts of public authorities unlawful if not compatible with certain human rights) and the need to act in a manner compatible with human rights protected by that Act

## Appendix 2: A summary of the governing board's duties to review the headteachers exclusion decision



<sup>49</sup> The governing board may delegate its functions to consider a suspension or permanent exclusion to a designated committee.

<sup>50</sup> The ability for a chair to review in the case of public exams refers only to maintained schools.

## Appendix 3: Headteachers checklist

### Taking the decision

**The Headteacher must take the decision whether to suspend or permanently exclude (you cannot delegate this).**

#### Things to consider

- Have I investigated specific incidents with all parties in a sensitive and fair way?
- Did I consider factors that could have contributed to the pupil's behaviour (e.g. SEND or bereavement) and have I taken these factors sufficiently into account?
- Is exclusion the most appropriate and reasonable sanction, and consistent with the school's behaviour policy?
- Are all the exclusion reasons clearly recorded, including the impact on others? Are they robust?
- Have I considered the potential safeguarding risks of a suspension or permanent exclusion?
- Is relevant evidence properly recorded/retained/documentated? (e.g. summaries of interviews, past behaviour, sanctions and support provided.)

### Checklist of appropriate evidence/procedure (dependent on circumstances)

#### Incident happens

- Consider safety/first aid for all involved
- Collect statements from staff witness
- Collect statements from students
- Collect perpetrators statement/interview where possible
- Check for any available CCTV or other evidence

#### Following incident

- Place student in a safe space (IE) pending investigation
- Student remains in IE while evidence is being collected and considered. In exceptional cases, usually where further evidence has come to light, a further fixed-period exclusion 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 fixed period.
- Where possible, Headteacher informs parents of decision to PX on the day. This may go onto the next school day where evidence is still being collected. Student will return to school the next day until a final decision is made

## Communication

- Parents informed first preferably by phone or in person in the first instance. Clear reasons for suspension or exclusion are given.
- Devon Inclusion are informed 'without delay' ➤ Inform social worker or VSH as appropriate.
- Inform Chair of Governors without delay.
- Permanent Exclusion letter given/emailed/posted to parents on the same day as final decision which clearly states the reason which meets the two legal tests.
- Annex G completed within 24 hours of final decision where possible.

## Appendix 4: Example letters to parents for Suspension and Permanent Exclusion

For the range of Model letters please see link to Devon Inclusion:

- Model letter 1 – suspension of 5 school days or fewer
- Model letter 2 – suspension of five days or more
- Model letter 3 – suspension of 15 days
- Model letter 4 – notifying parents of a permanent exclusion
- Model letter 5 – notifying parents that decision to exclude has been upheld
- Model letter 6 – notifying parents of discipline committee meeting
- Model letter 7 – notifying parents that pupil has been reinstated after a permanent exclusion - <https://www.devon.gov.uk/supportforschools/services-and-contacts/education-inclusion-service>

## Appendix 5: Checklist for Governor Review of Exclusions

**The following is taken from statutory guidance from the Department for Education: Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England including pupil movement (September 2022)**

**A summary of the governing board's duties to review the headteacher's exclusion decision**

1. Is it a permanent exclusion?

If the answer is yes, the governing board must convene a meeting to consider reinstatement within 15 school days of receiving notice of the permanent exclusion.<sup>51</sup> If the answer is no, go to step 2.

2. Is it a suspension that alone, or in conjunction with previous suspensions, will take the pupil's total number of days out of school above 15 for a term

If the answer is yes, the governing board must convene a meeting to consider reinstatement within 15 school days of receiving notice of the suspension.<sup>52</sup> If the answer is no, go to step 3.

3. Is it a suspension or permanent exclusion that will result in the pupil missing a public exam or national curriculum test?

If the answer is yes, the governing board must convene a meeting to consider reinstatement within 15 school days of receiving notice of the suspension or permanent exclusion.<sup>53</sup> The governing board must also take reasonable steps to meet before the date of the examination. If this is not practical, the chair of governors may consider pupil's reinstatement alone.<sup>54</sup> If the answer is no, go to step 4.

4. Will the suspension(s) take the pupil's total number of school days out of school above five but less than 16 for the term?

If the answer is yes, go to step 5.

If the answer is no, the governing board must consider any representations made by parents but does not have the power to decide whether to reinstate the pupil.

5. Have the pupil's parents requested a governing board meeting?

If the answer is yes, the governing board must convene a meeting to consider reinstatement within 50 school days of receiving notice of the suspension.

The governing board is not required to consider the suspension and does not have the power to decide to reinstate the pupil.

### **Preparing for the consideration of a suspension or permanent exclusion**

Where the governing board is legally required to consider the reinstatement of a suspended or permanently excluded pupil they should:

- not discuss the suspension or permanent exclusion with any party outside the meeting;
- ask for any written evidence in advance of the meeting, including witness statements<sup>55</sup> and other relevant information held by the school such as those relating to a pupil's SEN and the pupil's school record;
- 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 pupil to be accompanied by a friend or representative (where a pupil under 18 is to be invited as a witness, the governing board should first seek parental consent);
- invite the pupil's social worker, if they have one, and if the pupil is LAC, the VSH to attend;
- 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 pupil has a disability with 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 suspended or permanently excluded pupil to attend the meeting and speak on their behalf (such as providing accessible information or allowing them to bring a friend), taking into account the pupil's age and understanding; or how the suspended or permanently excluded pupil may feed in their views by other means if attending the meeting is not possible.

Witness statements can be gathered from the headteacher, the pupil's teachers, the designated safeguarding lead, the pupil themselves, the pupil's parent(s) and if applicable, the designated teacher for looked-after children. Where possible, written statements should also be gathered from the pupil's social worker, and for looked-after children the area's VSH.

### **Pupils who may miss a public examination or national curriculum test if they are suspended or permanently excluded**

There is no automatic right for a suspended or permanently excluded pupil to take a public examination or national curriculum test on the school's premises. The governing board should consider whether it would be appropriate to exercise its discretion to allow a suspended or permanently excluded pupil onto the premises for the sole purpose of taking the examination or test or whether this could be facilitated in another way.

## **Considering the reinstatement of a suspended or permanently excluded pupil**

Where the governing board is legally required to consider reinstating a suspended or permanently excluded pupil, they must consider both the interests and circumstances of the suspended or permanently excluded pupil, and that of other pupils, staff, and school community.

The governing board must also consider any representations made by or on behalf of:

- parents or the pupil if they are over 18 years old;
- the headteacher;
- the pupil's social worker if the pupil has one;
- if the pupil is looked after<sup>57</sup>, the VSH;
- and the local authority (in the case of a maintained school or PRU).

Taking into account, the pupil's age and understanding, the pupil or their parents should also be made aware of their right to attend and participate in the governing board meeting and the pupil should be enabled to make a representation on their own behalf if they desire to do so.

When establishing the facts in relation to a suspension or permanent exclusion the governing board 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'.

In the light of its consideration, the governing board can either:

- decline to reinstate the pupil; or
- direct reinstatement of the pupil immediately or on a particular date.

If a reinstatement meeting would make no practical difference because, for example, the pupil has already returned to school following the expiry of a suspension or the parents make clear they do not want their child reinstated, the governing board must still meet to consider whether the pupil should or would have been officially allowed back into the school. Ideally, a reinstatement meeting should happen as soon as possible and should ideally be held before the pupil is back in school.

If it decides against the reinstatement of a pupil who has been permanently excluded the parents can request an independent review.

## **Guidance on considering the reinstatement of a suspended or permanently excluded pupil**

The governing board should agree the steps they will take to ensure all parties will be supported to participate in its consideration and have their views heard. This is particularly important where pupils aged under 18 are speaking about their own suspension or permanent exclusion or giving evidence to the governing board.

The governing board should ensure that clear minutes are taken of the meeting as a record of the evidence that was considered by the governing board. These minutes should be made available to all parties on request and the record of discussion should state clearly how the decisions have been reached.

The governing board should ask all parties to withdraw from the meeting before making a decision. Where present, a clerk may stay to help the governing board by reference to their notes of the meeting and with the wording of the decision letter.

In reaching a decision on whether a pupil should be reinstated, the governing board should consider whether the decision to suspend or permanently exclude the pupil was lawful, reasonable, and procedurally fair. This should consider the welfare and safeguarding of the pupil and their peers, the headteacher's legal duties, and any evidence that was presented to the governing board in relation to the decision to exclude.

The governing board should note the outcome of its consideration on the pupil's educational record, and copies of relevant papers should be kept with the educational record.

In cases where the governing board considers parents' representations but does not reinstate the pupil, it should consider whether it would be appropriate to place a note of its findings on the pupil's educational record.

Claims of discrimination to the First-tier Tribunal<sup>58</sup> (Special Educational Needs and Disability), in relation to disability, or County Court<sup>59</sup>, for all other forms of discrimination, can be made up to six months after the discrimination is alleged to have occurred. Schools should retain records and evidence relating to an exclusion for at least six months in case such a claim is made.

Issues to Consider:	Evidence:
Were parent/carers, governing board and LA (including home LA) and social worker and VHE (where appropriate) informed of the exclusion and within stated timescales?	
Was the appropriate information provided in writing?	
Has the school taken steps to set & mark work or arranged alternative provision from day 6 of a longer exclusion?	
<p>Were the papers (written evidence and information) sent at least 5 school days before the meeting, including a copy of the school's Behaviour Policy?</p> <p>Does documentation include:-</p> <ol style="list-style-type: none"> <li>1. Witness statements regarding individual instances in the case of 'persistent breaches' of school policy?</li> <li>2. All related policies e.g. behaviour, exclusions, SEND...</li> <li>3. Reintegration meeting documentation</li> </ol> <p>Is there evidence that parents/carers/students have contributed to the PSP? Signatures to support this?</p>	
Were the parent/carers, head, social worker, VEH (where appropriate) and LA officer invited to the meeting (A parent may invite a representative of the local authority to attend a meeting of an Academy's governing board as an observer; that representative may only make representations with the governing board's consent.)	
<p>Has a clear reason for the exclusion decision been given? Is it clear whether the exclusion was for a 'one-off' serious breach <b>or</b> persistent breaches of the school's behaviour policy?</p> <p>If a Permanent Exclusion was the decision taken:</p> <ul style="list-style-type: none"> <li>• in response to a serious breach or persistent breaches of the school's behaviour policy; and</li> <li>• where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school?</li> </ul>	
The law does not allow for extending a fixed-period exclusion or 'converting' a fixed-period exclusion into a permanent exclusion. In exceptional cases, usually	



Issues to Consider:	Evidence:
<p>where further evidence has come to light, a further fixed-period exclusion 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 fixed period.</p> <p>Has the Headteacher written to the parents explaining the reasons for the permanent exclusion?</p>	
<p>The behaviour of a pupil outside school can be considered grounds for an exclusion.</p> <p>Whether the exclusion was for behaviour on or off the school premises?</p> <p>Disciplining beyond the school gate covers the school's response to all noncriminal bad behaviour and bullying which occurs anywhere off the school premises and which is witnessed by a member of staff or reported to the school. The governing body must be satisfied that the measures proposed by the headteacher are lawful.</p>	
<p>Whether the police were involved? How does this affect the evidence and decision? (Evidence may be limited by a police investigation or criminal proceedings)</p>	
<p>Has the pupil been enabled and encouraged to participate at all stages of the exclusion process, taking into account their age and understanding? (The decision on whether to exclude is for a Headteacher to take. However, where practical, Headteachers should give pupils an opportunity to present their case before taking the decision to exclude.)</p> <p>What measures have been taken to enable the student to fully express their feelings and views regarding exclusions and the events leading up to them?</p> <p>Has the student taken any action which demonstrates he/she/they understand the impact of their behaviour and subsequent consequences?</p>	
<p>Has the headteacher taken into account of any contributing factors that are identified after an incident of poor behaviour has occurred? (E.g. where it comes to light that a pupil has suffered bereavement, or has mental health issues or has been subject to bullying.)</p> <p>Governors should consider the chronology of events, proportionality of sanctions together with the support and interventions provided.</p>	
<p>Has the school taken account of pupils with additional needs, Education Health Care Plans or Looked After Children? (Headteachers should, as far as possible, avoid excluding permanently any pupil with an EHCP or a Looked After child (see DCC Protocol for Children in Care); Where a pupil has an EHCP, schools should consider requesting an early annual review or interim /emergency review)</p> <p>Has the school's Assess, Plan, Do review cycle been robust?</p> <p>How has the student's progress been monitored and has external support been sought in a timely manner?</p> <p>Where there has been alternative provision, have the aims been shared and monitored, risk assessments appropriate and transition/reintegration arrangements suitably considered?</p>	

Issues to Consider:	Evidence:
How has the student's progress been monitored and has external support been sought in a timely manner for example, Speech and language, CAHMS, educational psychologists, early help referral, SEMH referral.	
Has the headteacher had regard to the Equality Act 2010? Is there evidence of discrimination, harassment or victimisation because of: sex; race; disability; religion or belief; sexual orientation; because of a pregnancy/maternity; or because of a gender reassignment? Has the school taken any positive action to deal with particular disadvantages affecting one group?	
Has the Headteacher taken account of their statutory duties in relation to special educational needs (SEN), including the SEN Code of Practice? (For disabled children, this includes a duty to make reasonable adjustments to policies and practices)	
Has the school engaged proactively with parents/carers and the local authority?	
Has the school tried to identify whether there are any causal factors and intervened early in order to reduce the need for a subsequent exclusion e.g. a multi-agency assessment that goes beyond the pupil's educational needs, including seeking to identify mental health or family problems? ( <b>Disruptive behaviour can be an indication of unmet needs</b> ) Has the student been screened for any unmet needs? Governors should look at progress and attainment documentation over time.	
Is there evidence that the Headteacher has considered extra support needed to identify & address the needs of pupils in order to reduce the risk of exclusion? (Early intervention including multi-agency assessment e.g. Early Help/'Rights for Children', local authority SEMH)  Has the support offered been in line with the student's level of maturity, understand and ability to engage?	
Is there clear evidence of the strategies used and support provided by the school – do the papers include current and recent plans with dates, reviews and outcomes e.g. an Individual Education Plan, Integrated Support Plan, Pastoral Support Programme? (Are there identified targets and clear outcomes?)  Where the PSP identifies areas of concern, how have these concerns informed further assessments of need and subsequent support and has the school supported the pupil to address these areas?	
LA or other agencies/services involved e.g. Educational Psychology, Behaviour Support Team, PRU (Schools Company), Special Educational Needs, Youth Offending Team, Social Care, Ethnic Minority and Traveller Achievement Service, CSW. (Are details provided of the referrals to other services or professionals, the support provided and dates of plans/reviews and outcomes?)	
Have alternatives to exclusion been considered? For example: <ol style="list-style-type: none"> <li>1. Mediation, restorative justice, internal exclusion</li> <li>2. Curriculum alternatives at Key Stage 4 – college placement or other form of alternative provision</li> <li>3. Temporary placement in an in-school Learning Support Unit</li> <li>4. Temporary or part-time placement in a Pupil Referral Unit or with a voluntary/private sector alternative provider</li> </ol>	

Issues to Consider:	Evidence:
5. A Managed Move to another school 6. Assessment of special educational needs.	
<p><b>Have you (the governing body):</b></p> <ul style="list-style-type: none"> <li>• Considered the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and had regard to the interests of other pupils &amp; people working at the school</li> <li>• Considered any representations made by parents/carers, the Headteacher and a representative of the local authority. (in the case of a maintained school or PRU)</li> <li>• Established the facts 'on the balance of probabilities'. (</li> <li>• Considered whether the decision to exclude the pupil was lawful, reasonable and procedurally fair, taking account of the Headteacher's legal duties. (In reaching a decision on whether or not to reinstate a pupil)</li> <li>• Decided to direct reinstatement of the pupil immediately or on a particular date</li> <li>• Where legally required to consider an exclusion, notified parents/carers, the Headteacher and the local authority of your decision, giving reasons, in writing and without delay. (Also inform the pupil's 'home authority')</li> <li>• Informed parents, if a Permanent Exclusion, of their rights to apply for an Independent Review of your decision and to make a discrimination claim.</li> <li>• Ensured that clear minutes of the meeting were taken as a record of the evidence that was considered. (These minutes should be made available to all parties on request)</li> <li>• Noted the outcome of your consideration on the pupil's educational record, along with copies of relevant papers for future reference.</li> <li>• Made arrangements to retain records and evidence relating to an exclusion for at least six months in case a discrimination claim is made.</li> <li>• Also: (Where recommended or directed by an Independent Review Panel) reconsidered your decision and notified parents, the Headteacher and local authority of your reconsidered decision, and the reasons for it, in writing and without delay.</li> </ul>	

## Appendix 5: Disciplinary Committee Agenda Template

ITEM	
1	The Chair invites the Headteacher to make a statement to the Committee to expand on, or summarise, the points in his/her written report
2	The Chair invites the parents/carers (or representative speaking on their behalf) to ask the Headteacher questions about the report and statement
3	If the Headteacher has called any person to provide information, the Chair should now invite that person to make a statement to the Committee
4	The Chair invites the parents/carers (or their representative) to ask this person questions
5	The Chair invites the parents/carers to make their statement to the Committee
6	The Chair invites the Headteacher to ask the parents/carers questions
7	If the parents/carers have called any person to provide information, the Chair should now ask that person to make a statement to the Committee
8	The Chair invites the Headteacher to ask this person questions
9	The Chair invites the local authority officer to make a statement to the Committee
10	The Chair invites the Headteacher to ask the LA officer questions
11	The Chair invites the parents/carers (or their representative) to ask the LA officer questions
12	The Chair invites members of the Discipline Committee to question the Headteacher, parents/carers and LA officer. In considering whether to direct reinstatement, the Committee should seek the LA Officer's views as to what support could be made available to assist with reintegrating the pupil
13	The Chair asks the Headteacher to make a closing statement to summarise his/her position
14	The Chair asks the parents/carers (or their representative) to make a closing statement
15	The Chair asks the LA officer to make a closing statement
16	The Chair asks the Headteacher, the parents/carers (or their representative), the LA officer and anyone called to give evidence to leave the room, while the Discipline Committee makes its formal resolution which will be minuted by the Clerk. (The clerk does not need to minute the discussion leading to the decision, but will minute the decision reached and the reasons for that decision).
17	The Clerk asks all parties to return to the meeting for the Chair to notify them all of the decision. This decision must be confirmed in writing, detailing the appeal process if the decision was not to reinstate the pupil. (A model letter is available)

## Appendix 7: Checklist of documents for 'exclusion bundle'

Documentation	Page
<b>Information about the permanent exclusion</b>	
Permanent exclusion form – Annexe G	
Permanent exclusion letter to parents	
Headteacher/Principal's statement	
Chronology of Events	
<b>General exclusion/attendance information</b>	
Record of all past exclusions – Annexe Bs	
Behaviour logs	
Letter to parents regarding all past exclusions	
Reintegration meeting minutes from past exclusions	
Record of Attendance	
<b>Evidence relating to the permanent exclusion</b>	
Pupil's statement(s)	
Witness statements	
Risk Assessments	
Behaviour Policy	
Exclusions Policy	
<b>SEN/D Support – plans should be signed to reflect those involved</b>	
SEN/D Policy	
Annexe R	
SEN/D statement	
SEN/D Reviews	
IEP - Individual Education Plan	
IBP – Individual Behaviour Plan	
PSP – Pastoral Support Plan/Relational Support Plan	
PHP – Positive Handling Plan	
Educational Psychologist Report (attached with parental consent)	
Provision Map	
<b>External agency support</b>	
Early help referrals and plans	
Team around the family referrals and plans	
External support such as YSmart/CAHMS	
Records of discussion with external professionals and their recommendations	
<b>Academic records</b>	
Progress and attainment documentation	
Annual reports	

## Appendix 8: Model reintegration meeting record

**FIXED TERM EXCLUSION – Reintegration Meeting** - Please return form to reception Date

of Exclusion:

Student:

SEND:

Tutor Group:

Period of Exclusion (number of days):

Physical assault against pupil  <b>Article 19 (Protection from all forms of violence):</b> <i>Children have the right to be protected from being hurt and mistreated, physically or mentally</i>		Persistent or general disruptive behaviour <b>Article 28: (Right to education):</b> <i>All children have the right to an education,</i>	
Physical assault against adult		Theft <b>Article 16 (Right to privacy):</b> <i>Children have a right to privacy. The law should protect them from attacks against their way of life, their good name, their families and their homes.</i>	
Verbal abuse/threatening behaviour against pupil  <b>Article 19 (Protection from all forms of violence)</b>		Drug related/alcohol related/tobacco related  <b>Article 33 (Drug abuse):</b> <i>Governments should use all means possible to protect children from the use of harmful drugs and from being used in the drug trade.</i>	
Verbal abuse/threatening behaviour against adult		Sexual misconduct  <b>Article 34 (Sexual exploitation):</b> <i>Governments should protect children from all forms of sexual exploitation and abuse</i>	
Bullying  <b>Article 19 (Protection from all forms of violence)</b>		Damage to school or personal property  <b>Article 29 (Goals of education):</b> <i>The convention should also help them learn to live peacefully, protect the environment and respect other people.</i>	
Use or threat of use of an offensive weapon or prohibited item		Racist abuse  <b>Article 2 (Non-discrimination):</b> <i>The Convention applies to all children, whatever their race, religion or abilities; whatever they think or say, whatever type of family they come from. No child should be treated unfairly on any basis.</i>	
Abuse against sexual orientation and gender identity (for example LGBT)		Abuse relating to disability	
Damage		Inappropriate use of social media or online technology	

### Re-integration Meeting

Return Date:

Time of Meeting:

Student Name:

Signature .....

Parent/Carer:

Signature .....

Meeting with SSO/SLT/HT

**Targets to be addressed/expected behaviour:**

1.

2.

3.

**Support/Actions agreed by the school:**

.

.

.

**Monitoring Report (Colour/date to review):**

**Report to Pastoral/SLT:**

**Other factors to review/support reintegration:****Have we/do we need to: (add details as necessary)**

- ✓ Completing re-integration form which outlines targets and support for the student to reduce the risk of reoffending.

- ✓ Consideration of planning a review of any PSP, BCP, referral onto outside agencies.

- ✓ Consideration of a referral to the school counsellor.

- ✓ Plan a restorative meeting, when appropriate, with staff or students.

- ✓ Go on report card to pastoral/senior staff as appropriate.

- ✓ Time in internal exclusion/isolation if appropriate.

- ✓ A risk assessment, if required.

- ✓ Send quick checker or another SEND assessment needed.

Other:



## **Appendix 7: Guide/Support for parents:**

(This section is copied from the Exclusion from maintained schools, academies and pupil referral units in England document September 2017) see link for whole document:

- <https://www.gov.uk/government/publications/school-exclusion>