

Newham Community Learning: Exclusions and Suspensions Policy

Last updated: January 2024 as v3.1

Applies to: Newham Community Learning

Approved by: Trust Board, December 2023 (January change purely administrative as noted in the schedule)

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1. Overview of the Policy Management Process

1.1. Document history

| Date | Revision | Version number (substantive revisions are allocated a new whole number; minor revisions are designated by the addition of a consecutive decimal point) |
|------------|--|---|
| March 2022 | NCL Trust level Exclusions Policy in place (note that school-specific operational arrangements are also to be noted) | v1.0 |
| Sept 2022 | <p>Reviewed, updated and released as a Newham Community Learning Policy</p> <p>Updates further to September 2022 DfE guidance incorporated into this version</p> <p>Update policy refers to all relevant Newham guidance</p> | v.2.0 |
| Dec 2022 | Minor updates and approved by the Trust Board | v.2.1 |
| Dec 2023 | <p>Updated in line with DfE guidance issued September 2023 which includes:</p> <ul style="list-style-type: none"> - All hyperlinks to 2022 guidance updated to navigate to 2023 guidance - 2.1 - Additional paragraph added to detail how our Trust and our schools ensure high expectations and standards of behaviour - 2.3. - Additional statutory guidance and legislation listed and linked to - 2.6.1. - Duties of the Headteacher - cancellation section updated - 2.6.1. - Duty to notify the LA added - 2.6.2. - Monitoring and analysing the suspensions and exclusions data, including at Trust level - 2.6.2. - Off-site directions and managed moves - explanatory guidance added in new sub-section - 2.9. - Consideration for remote access meeting - new section added | v.3.0 |

| Date | Revision | Version number (substantive revisions are allocated a new whole number; minor revisions are designated by the addition of a consecutive decimal point) |
|--------|---|---|
| Jan 24 | Updates made to links to ensure accessibility - not presented to the Trust Board as administrative change only. | v.3.1 |

1.2. Review and approval

The Suspensions and Exclusions Policy applies to the whole Trust. It is reviewed by the Executive Team (and/or their delegates) and is then presented to the Trust Board for approval (via a relevant board committee if appropriate).

It is reviewed in line with the Trust Policy Review Schedule.

2. Newham Community Learning - Suspension and Exclusion Policy

2.1. Introduction and purpose

Newham Community Learning (NCL) is committed to serving its community in order to achieve the best possible outcomes for all young people attending its schools. *Exclusion from any of our schools is only ever used as a last resort to address either extreme or persistent unacceptable behaviour. All decisions relating to exclusion are made by the Headteacher or Acting Headteacher in his/her absence, and in accordance with this policy.* This policy should be read in conjunction with the [DfE guidance around suspensions and exclusions, September 2023](#).

As per our statutory duties, as schools and as a Trust, we ensure that we have consistent processes in place for setting and maintaining high standards of behaviour and preventing bullying. These are set at Trust level through the publication of our Behaviour Principles, available on the [Policies Page](#) of the Trust website; these are followed by each of our schools which develop contextual behaviour and anti-bullying policies, which are regularly reviewed to ensure that the needs of all pupils are met through their implementation. Our policies support us in carrying out our duties under the Education and Inspections Act 2006 to:

- promoting self discipline and proper regard for authority among pupils;
- 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; and
- securing that pupils complete any tasks reasonably assigned to them in connection with their education, and otherwise regulating the conduct of pupils.

Permanent exclusions can be used to help achieve these aims when they are absolutely necessary, as a last resort.

In summary, our Trust policy is in place in order to:

- Ensure that the exclusions process is applied fairly and consistently;
- Help governors, staff, parents and pupils understand the exclusions process;
- Ensure that pupils in school are safe and happy;
- Prevent pupils from becoming NEET (not in education, employment or training); and
- Ensure all suspensions and permanent exclusions are carried out lawfully

Additional aims of the policy are to ensure:

- *A balance between the needs of the individual pupil(s) who may need to be excluded against the needs of the pupils and adults in the school community;*

- *A fair, equitable and consistent system for exclusions from NCL schools, particularly in relation to ethnic groups;*
- *That exclusion is only used when it is the most appropriate way of supporting the schools' Behaviour for Learning Policies and other local arrangements in place to encourage and support behaviour for learning;*
- *Exclusion is only one of many options used to address unacceptable behaviour;*
- *That exclusion is used primarily as a strategy for supporting a pupil in changing their behaviour;*
- *That suspensions are used in the appropriate circumstance.; and*
- *That permanent exclusions are used in the appropriate circumstance.*

In order to achieve these aims, all NCL schools will seek to:

- *Provide an appropriate curriculum to meet the individual needs of every pupil ensuring appropriate stretch and challenge for all;*
- *Ensure that the school's Behaviour for Learning Policy and other local arrangements are implemented effectively;*
- *Apply suitable rewards and sanctions;*
- *Provide effective pastoral support for pupils;*
- *Provide effective additional support for pupils;*
- *Involve parents, persons with parental responsibility and, where appropriate, community organisations in order to support pupils;*
- *Monitor exclusions carefully;*
- *Provide appropriate training for staff on Behaviour for Learning;*
- *Provide appropriate training for staff on the issues pertaining to the overrepresentation of ethnic minority and SEND pupils (or other over represented groups) in the school's exclusions figures; and*
- *Ensure that exclusions are consistently applied.*

2.2. Aims

This Trust policy aims to ensure that at all NCL schools:

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

2.3. Legislation and statutory guidance

This Trust policy is based on statutory guidance from the Department for Education: [Exclusion from maintained schools, academies and pupil referral units \(PRUs\) in England](#).

It is based on the following legislation, which outline the powers that Trusts and schools have to exclude pupils:

- 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](#).
- It is based on the following legislation, which outlines schools' powers to exclude pupils:
- Section 51a of the [Education Act 2002](#), as amended by the [Education Act 2011](#)
- [The School Discipline \(Pupil Exclusions and Reviews\) \(England\) \(Amendment and Transitional Provision\) Regulations 2023](#)

In addition, the policy is based on:

- Part 7, chapter 2 of the [Education and Inspections Act 2006](#), which sets out 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 Equality Act 2010](#)
- [Children and Families Act 2014](#)
- [Behaviour in Schools Guidance 2022](#)
- [Alternative Provision - Statutory Guidance for Local Authorities 2013](#)

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

2.4. The decision to 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.

All NCL schools are 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 young person at our schools receives an education in a safe and caring environment.

We will not suspend or exclude pupils unlawfully by directing them off site, or not allowing pupils to attend school:

- Without following the statutory procedure or formally recording the event, e.g. sending them home to 'cool off';
- Because they have special educational needs and/or a disability (SEND) that the school feels unable to support;
- Due to poor academic performance;

- Because they haven't met a specific condition, such as attending a reintegration meeting; or
- By exerting undue influence on a parent to encourage them to remove their child from the school.

A decision to exclude a pupil will be taken only:

- In response to serious or persistent breaches of the Behaviour Policies in place at our schools, and
- If allowing the pupil to remain in school would seriously harm the education or welfare of others.

Before deciding whether to exclude a pupil, either permanently or for a fixed period, the Headteacher will:

- Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked;
- Allow the pupil to give their version of events; and
- Consider if the pupil has special educational needs (SEN)

2.5. Definitions

For the purposes of exclusions, a 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.

Suspension – when a pupil is removed from the school for a fixed period. This was previously referred to as a 'fixed-term exclusion'.

Permanent exclusion – when a pupil is removed from the school permanently and taken off the school roll. This is sometimes referred to as an 'exclusion'.

Off-site direction – when a governing board of a maintained school requires a pupil to attend another education setting temporarily, to improve their behaviour.

Parent – any person who has parental responsibility and any person who has care of the child.

Managed move – when a pupil is transferred to another school permanently. All parties, including parents and the admission authority for the new school, should consent before a managed move occurs.

Cancelled exclusion - refers to an exclusion that has been cancelled before the governing body has met to consider whether the pupil should be reinstated.

2.6. Roles and responsibilities

2.6.1. The Headteacher

Deciding whether to suspend or exclude

Only the Headteacher, or acting Headteacher, can suspend or permanently exclude a pupil from school on disciplinary grounds. The decision can be made in respect of behaviour inside or outside of school. The Headteacher will only use permanent exclusion as a last resort.

A decision to suspend or exclude a pupil will be taken only:

- In response to serious or persistent breaches of the school's behaviour policy, and
- If allowing the pupil to remain in school would seriously harm the education or welfare of others.

Before deciding whether to suspend or exclude a pupil, the Headteacher will:

- Consider all the relevant facts and evidence on the balance of probabilities, including whether the incident(s) leading to the exclusion were provoked;
- Allow the pupil to give their version of events;
- Consider whether the pupil has special educational needs (SEN);
- Consider whether the pupil is especially vulnerable (e.g. the pupil has a social worker, or is a looked-after child (LAC)); and
- Consider whether all alternative solutions have been explored, such as off-site direction or a managed move.

The Headteacher will consider the views of the pupil, in light of their age and understanding, before deciding to suspend or exclude, unless it would not be appropriate to do so.

Pupils who need support to express their views will be allowed to have their views expressed through an advocate, such as a parent or social worker.

The Headteacher will not reach their decision until they have heard from the pupil, and will inform the pupil of how their views were taken into account when making the decision.

In the case of all permanent exclusions, the Headteacher will, without delay, notify Newham's Exclusions and Reintegration Officer, at exclusions@newham.gov.uk, using the Permanent Exclusion Reporting Form, a copy of which is available [in this folder](#) (only available to Trust staff).. Additional guidance regarding the completion of the form can be found on p.13 of the LBN Protocol for suspensions and permanent exclusions, also available in the folder. Headteachers are all required to be familiar with this additional guidance.

Informing parents

If a pupil is at risk of suspension or exclusion the Headteacher will inform the parents as early as possible, in order to work together to consider what factors may be affecting the pupil's behaviour, and what further support can be put in place to improve the behaviour.

If the Headteacher decides to suspend or exclude a pupil, the parents will be informed of the period of the suspension or exclusion and the reason(s) for it, without delay. The Headteacher should

notify the parent in person or on the telephone, giving the parent the opportunity to ask questions and to raise any concerns. It also enables the Headteacher to know whether the parent understood the scale of the incident.

The parents will also be provided with the following information in writing, without delay:

- The reason(s) for the suspension or exclusion;
- The length of the suspension or, for a permanent exclusion, the fact that it is permanent;
- Information about 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;
- Where there is a legal requirement for the governing board to hold a meeting to consider the reinstatement of a pupil, and that parents have a right to attend the meeting, be represented at the meeting (at their own expense) and to bring a friend.

The Headteacher will also notify parents without delay and by the end of the afternoon session on the first day their child is suspended or permanently excluded, that:

- For the first 5 school days of an exclusion (or until the start date of any alternative provision or the end of the suspension, where this is earlier), the parents are legally required to ensure that their child is not present in a public place during school hours without a good reason. This will include specifying on which days this duty applies.
- 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, if possible:

- 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; and
- Any information the pupil needs in order to identify the person they should report to on the first day.

The Headteacher should use the LBN template letter when writing to parents, which will ensure that all the above provisions are met. These are available [in this folder](#) - accessible to Trust staff only. The letter can be hand delivered or posted to the home address of the pupil. If sending the letter home with the pupil, a copy should also be sent directly to the home address. Electronic communication can be used if parents have provided written agreement.

If the Headteacher does not have all the information about the alternative provision arrangements by the end of the afternoon session on the first day of the suspension or permanent exclusion, they can provide the information at a later date, without delay and 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 a suspension or permanent exclusion, in which case the school reserves the right to provide the information with less than 48 hours' notice, with parents' consent.

The Headteacher will ensure that, during the first 5 days of the exclusion period, work is provided to the pupil. This is required for both suspensions **and** for permanent exclusions.

For *suspensions* over 5 days, suitable full-time education must be provided, by the school, on the sixth school day. For *permanently excluded* pupils, the local authority must arrange suitable full-time education to begin from the sixth school after the first day the permanent exclusion took place.

Informing the governing board

The Headteacher will, without delay, notify the governing board when the circumstances below apply.

- *Any permanent exclusion, including when a suspension is followed by a decision to permanently exclude a pupil;*
- *Any suspension which would result in the pupil being suspended or for a total of more than 5 school days (or more than 10 lunchtimes) in a term; or*
- *Any suspension or permanent exclusion which would result in the pupil missing a National Curriculum test or public exam.*

The Headteacher will notify the governing board once per term of any other suspensions of which they have not previously been notified, and the number of suspensions and exclusions which have been cancelled, including the circumstances and reasons for the cancellation. This will be reported via the Headteachers Report to the governing board, and will also be provided to the Trust Board of Newham Community Learning.

A flowchart summarising the governing board's duties to review the Headteacher's exclusion decision can be found on page 14 of the [LBN Protocol for the governing board to consider exclusions](#).

Informing the pupil's social worker and/or virtual school head (VSH)¹

If a:

- *Pupil with a social worker is at risk of suspension or permanent exclusion, the Headteacher will inform the social worker as early as possible*
- *Pupil who is a looked-after child (LAC) is at risk of suspension or exclusion, the Headteacher will inform the VSH as early as possible*

¹ Newham's VSH is Val Naylor, who can be contacted on val.naylor@newham.gov.uk.

This is in order to work together to consider what factors may be affecting the pupil's behaviour, and what further support can be put in place to improve the behaviour. Additional guidance can be found on page 10 of the LBN Protocol.

The Personal Education Plan (PEP) for a looked-after child should be reviewed each term. Any concerns about the pupil's behaviour should be recorded and acted on to reduce the need for suspension or exclusion in future.

If the Headteacher decides to suspend or permanently exclude a pupil with a social worker / a pupil who is looked after, they will inform the pupil's social worker / the VSH, as appropriate, without delay, that:

- They have decided to suspend or permanently exclude the pupil;
- The reason(s) for the decision;
- The length of the suspension or, for a permanent exclusion, the fact that it is permanent; and
- The suspension or permanent exclusion affects the pupil's ability to sit a National Curriculum test or public exam (where relevant)

The social worker / VSH will be invited to any meeting of the governing board about the suspension or permanent exclusion. This is so they can provide advice on how the pupil's background and/or circumstances may have influenced the circumstances of their suspension or permanent exclusion. The social worker should also help ensure safeguarding needs and risks and the pupil's welfare are taken into account.

Informing the Local Authority

When Headteachers suspend or permanently exclude a pupil, they must also notify the local authority, without delay.

Cancelling suspensions and permanent exclusions

The Headteacher may cancel a suspension or permanent exclusion that has already begun (or one that has not yet begun) but this can only happen when the local governing body has not yet met to consider whether the pupil should be reinstated. Where an exclusion is cancelled:

- The parents, governing board and LA will be notified without delay;
- Where relevant, any social worker and VSH will notified without delay;
- Parents will be offered the opportunity to meet with the Headteacher to discuss the circumstances that led to the exclusion being cancelled without delay;
- The local governing body's duty to consider reinstatement ceases, and there is no requirement to hold a meeting to consider reinstatement;
- The pupil must be allowed back into the school from which they were excluded without delay;
- Any days spent out of school as a result of any exclusion, prior to the cancellation, will count towards the maximum of 45 school days permitted in any school year

Template letters which can be used to advise these groups of the cancellation are available [in this folder](#) (access to this folder is for Trust staff only).

A permanent exclusion cannot be cancelled if the pupil has already been excluded for more than 45 school days in a school year or if they will have been so by the time the cancellation takes effect.

Providing education during the first 5 days of a suspension or permanent exclusion

During the first 5 days of a suspension, if the pupil is not attending alternative (AP) provision, the Headteacher will take steps to ensure that achievable and accessible work is set and marked for the pupil. Online pathways such as Google Classroom or Oak Academy may be used for this. If the pupil has a special educational need or disability, the Headteacher will make sure that reasonable adjustments are made to the provision where necessary.

If the pupil is looked after or if they have a social worker, the school will work with the LA to arrange AP from the first day following the suspension or permanent exclusion. Where this isn't possible, the school will take reasonable steps to set and mark work for the pupil, including the use of online pathways.

2.6.2. The governing body

Considering suspensions and permanent exclusions

Responsibilities regarding exclusions are delegated to the school local governing body, which, as per the Trust's articles of association, is a committee of the Trust Board.

The local governing body has a duty to consider parents' representations about a suspension or permanent exclusion. It has a duty to consider the reinstatement of a suspended or permanently excluded pupil in certain circumstances.

In carrying out this duty, the local governing body convenes, as and when necessary, a panel of at least 3 governors.

Guidance as to how the panel of the governing board will both deliberate and reach their decision regarding the exclusion is available on pages 10-11 of the [LBN Protocol for the governing board to consider exclusions](#).

Use of off-site directions and managed moves

Local governing bodies should be aware of off-site directions and managed moves as strategies schools can use to support pupils. Both should only be used

- *Off-site directions* - time limited placements at an alternative provision or at another mainstream school - or a combination of the two to best meet the pupil's needs. During this time, pupils should be dual registered. The length of time spent at an off-site direction must be kept under review by the local governing body. The focus of the placement must remain

on ensuring that the pupil continues to receive an education across a broad and balanced curriculum, whilst any inappropriate behaviours which require intervention are being addressed.

- *Managed move* - a managed move is used to initiate a process which leads to the transfer of a pupil to another mainstream school permanently. These should be voluntary and agreed with all parties involved, including the pupil's parents and the admission authority of the new school.

Monitoring and analysing suspensions and exclusions data

The local governing body will challenge and evaluate the data on the school's use of suspension, exclusion, off-site direction to alternative provision and managed moves. The local governing body will also ensure that they scrutinise the data to consider the level of pupil moves and the characteristics of pupils who have been permanently excluded to ensure the sanction is only used when necessary as a last resort.

The local governing body will also consider:

- How effectively and consistently the school's behaviour policy is being implemented;
- Instances where pupils receive repeat suspensions;
- Timing of moves and permanent exclusions, and whether there are any patterns, including any indications which may highlight where policies or support are not working;
- The characteristics of suspended and permanently excluded pupils, and why this is taking place; and
- 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 and that pupils are benefiting from it.

At all Newham Community Learning schools, this data is reported to the local governing body via the Headteachers Report, circulated at local governing body meetings. The Trust Board receives summary information from each school at each of its meetings, which is scrutinised in greater detail by the Standards and Community Committee of the Trust Board. This scrutiny includes ascertaining whether there are any particular patterns across schools within the Trust.²

2.6.3. The local authority (LA)

For *permanent exclusions*, the **LA** will arrange suitable full-time education to begin no later than the sixth school day after the first day the exclusion took place. Additional points to consider are available on p. 32 of the [DfE's September 2023 guidance](#).

For pupils who are LAC or have social workers, the LA and the school should work together to arrange suitable full-time education to begin from the first day of the exclusion.

² Recognising that numbers at any single school are often too low to allow for meaningful statistical analysis.

For a *suspension* of more than 5 school days, the **governing body** (represented by the panel) must arrange suitable full time education for any pupil of compulsory school age. This provision is commonly called alternative provision and must begin no later than the sixth school day of the suspension.

2.7. The governors' duty to consider an exclusion

Governing bodies have a key responsibility in considering whether excluded pupils should be reinstated. This forms part of their wider role to hold executive leaders to account for the lawful use of exclusion, in line with the duties set out in law.

The governing board has a duty to consider parents' representations about a suspension or a permanent exclusion. *The requirements on a governing board to consider the reinstatement of a suspended or permanently excluded pupil depend on a number of factors.* [Appendix 2](#) provides a summary of these requirements in diagrammatic form (from the DfE guidance). Pages 39 and 40 of the [DfE guidance](#) provide additional guidance.

The governing board (or, more usually, a panel of 3 governors, convened for this purpose³) will consider and decide on the reinstatement of a *suspended* or *permanently excluded* pupil within 15 school days of receiving the notice of the suspension or permanent exclusion if:

- *The exclusion is permanent;*
- *It is a suspension which would bring the pupil's total number of days out of school to more than 15 in a term; or*
- *It would result in a pupil missing a public exam or National Curriculum test*

The requirements are different for *suspensions* where the pupil would be suspended for more than 5 but less than 16 school days in a term. In this case, if the parents make representations, the governing board must consider and decide within 50 school days of receiving the notice of suspension whether the suspended pupil should be reinstated. *In the absence of any representations from the parents, the governing board is not required to meet and cannot direct the reinstatement of the pupil.*

Where a suspension or permanent exclusion would result in a pupil missing a public exam or National Curriculum test, the governing board will, as far as reasonably practicable, consider and decide on the reinstatement of the pupil before the date of the exam or test.

The panel should consist of 3 governors, and it is best practice not to make use of staff or parent governors as they may, directly or indirectly, be linked to the pupil. Ideally, the governors should have received exclusions training in the last 2 years. Governors who will be attending the panel **must** be sent the [LBN guidance contained in the document](#):

³ Throughout this section, where the term 'Governing Board' is used, it is taken to mean this panel of 3 governors, convened for this purpose.

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

- Parents (and, where requested, a representative or friend)
- The Headteacher;
- Social worker (if the pupil has one);
- Newham's Virtual School Headteacher - if the pupil is a looked after child or previously looked after child.

Note that in addition, *parents may request* that the local authority and/or the home local authority attend a meeting of Trust School's governing board *as an observer*; that representative may only make representations with the governing board's consent.

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 meetings and the pupil should be enabled to make a representation on their own behalf if they wish to do so.

Additional information is available in the [Newham Protocol - Administration Tasks guidance](#), pages 5-7. Pages 7-8 detail the paperwork that should be prepared for the meeting.

The governing board will *try* to arrange the meeting within the statutory time limits set out above and *must try* to have it at a time that suits all relevant parties. However, its decision will not be invalid simply on the grounds that it was not made within these time limits.

In the case of a *suspension* which *does not* bring the pupil's total number of days of suspension to more than 5 in a term, the governing board must consider any representations made by parents, *but it cannot direct reinstatement and is not required to arrange a meeting with parents*.

2.7.1. Considering the reinstatement of a suspended or permanently excluded pupil

Where the governing board is legally required to consider the reinstatement of 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 the school community.

The governing board must also consider any representations made on behalf of attendees invited to the meeting (see previous section).

They will decide whether or not a fact is true 'on the balance of probabilities' - ie. the civil standard of proof (it is more likely than not that this fact is true) - rather than the criminal standard of 'beyond reasonable doubt'. Additional guidance is available on page 10 of the [LBN Protocol for the governing board to consider suspensions or permanent exclusions](#) as well as in the [DfE's Statutory Guidance](#).

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

- Decline to reinstate the pupil, or

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

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

In reaching a decision, the governing board will consider:

- Whether the decision to suspend or permanently exclude was lawful, reasonable, and procedurally fair
- Whether the Headteacher followed their legal duties
- The welfare and safeguarding of the pupil and their peers
- Any evidence that was presented to the governing board

Minutes will be taken of the meeting, and a record kept of the evidence that was considered. The outcome will also be recorded on the pupil's educational record, and copies of relevant papers will be kept with this record.

2.7.2. The governors' duty to notify people after its consideration of reinstatement

Where legally required to consider reinstating a suspended or permanently excluded pupil the governing board will notify, in writing, the following stakeholders of its decision, along with reasons for its decision, without delay:

- The parents
- The Headteacher

And, where relevant:

- The pupil's social worker, if they have one and/or the VSH
- The VSH, if the pupil is looked after
- The local authority
- The pupil's home authority, if it differs from the school's

In the case of a permanent exclusion where the governing board *decides not to reinstate the pupil*, the governing board's notification *must* state that the exclusion is permanent and provide notice of parents' right to ask for the decision to be reviewed by an IRP (independent review panel) and the following information:

- The date by which an application for an independent review must be made (15 school days from the date on which notice in writing of the governing board's decision is given to parents);
- That any application should set out the grounds on which it is being made and that, where appropriate, it should include reference to how the pupil's special educational needs (SEN) are considered to be relevant to the permanent exclusion; and
- That, regardless of whether the excluded pupil has recognised SEN, parents have a right to require the Trust to appoint an SEN expert to advise the review panel.

That, *in addition to* the right to apply for an IRP, if parents believe that the permanent exclusion has occurred as a result of unlawful 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. Also that any 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.

The governing board may provide the information above either (a) in person or (b) by delivering it to their last known address or (c) by posting it first class mail to that address.

2.8. The Trust's duty to arrange an independent review panel

If parents apply for an independent review within the legal timeframe, 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* the pupil or, if after this time, within 15 school days of the final determination of a claim of discrimination under the Equality Act 2010 regarding the permanent exclusion.

2.8.1. Appointing panel members

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 governor category and 2 members will come from the Headteacher category. At all times during the review process there must be the required representation on the panel.

- 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);
- Current or former school governors 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; and
- 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 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; or
- Have not had the required training within the last 2 years (see appendix 1 for what training must cover).

2.8.2. Appointing a clerk and the clerk's role

The Trust must appoint a clerk to provide advice to the panel and parties to the review on procedure, law and statutory guidance on suspensions and permanent exclusions.

Full details of the role of the clerk are provided in the [DfE guidance, September 2023](#), on pages 53-54.

2.8.3. Appointing a SEN expert

If requested by parents with their application for an independent review, the Trust must appoint a SEN expert to attend the review and must cover the associated costs of this appointment.

Full details of the role of the clerk are provided in the [DfE guidance, September 2023](#).

2.8.4. The roles, conduct and process: independent review panels

The Trust follows the arrangements set out in the [DfE guidance, September 2023](#).

2.8.5. Guidance to independent review panel members on coming to a decision

The panel's decision should not be influenced by any stated intention of the parents or pupil not to return to the school. 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 should 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?

Procedural impropriety means not simply a breach of minor points of procedure but something more substantive that has a significant impact on the quality of the decision-making process. This will be a judgement for the panel to make, but the following are examples of issues that could give rise to procedural impropriety: bias; failing to notify parents of their right to make representations; the governing board making a decision without having given parents an opportunity to make representations; failing to give reasons for a decision; or being a judge in your own case (for

example, if the headteacher who took the decision to exclude were also to vote on whether the pupil should be reinstated).

Where the criteria for quashing a decision not to reinstate has *not* been met, the panel should consider whether it would be appropriate to recommend that a governing board reconsiders its decision not to reinstate the pupil. This should not be the default option but should be used where evidence of procedural flaws has been identified that do not meet the criteria for quashing the decision, but which the panel believes justify a reconsideration of the governing board's decision. This could include when new evidence presented at the review hearing was not available to the governing board at the time of its decision.

In all other cases the panel should uphold the governing board's decision.

2.8.6. Guidance on notifying parties of the outcome of the review

If the panel upholds the governing board's decision not to reinstate, the clerk should immediately report this to the local authority (who should inform, where a pupil has one, the social worker and VSH), and notify the parents and the governing board.

If the pupil lives outside the local authority area in which the school is located, the clerk should make sure that the 'home authority' is also informed in writing of the outcome of the review without delay. This includes any situation where parents withdraw or abandon their application for a review.

2.8.7. The governing body's duty to reconsider reinstatement following a review

When an IRP directs or recommends a pupil's reinstatement, the governing board has the opportunity to look at the pupil's reinstatement afresh.

Where the panel directs or recommends that the governing board reconsider whether a pupil should be reinstated, the governing board must reconvene to do so within ten school days of being given notice of the panel's decision. Notice is deemed to have been given on the day of delivery if it is delivered directly or on the second working day after posting if it is sent by first class mail.

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'

The reconsideration provides an opportunity for the governing board to look afresh at the question of reinstating the pupil, in light of the findings of the IRP. There is no requirement to seek further representations from other parties or to invite them to the reconsideration meeting. The governing

board is not prevented from taking into account other matters that it considers relevant. It should, however, take care to ensure that any additional information does not make the decision unlawful.

2.9. Consideration for remote access

Parents can request that a meeting - either a local governing body meeting or an IRP meeting - be held remotely. The meeting must only be held in this way if the local governing body or IRP are satisfied that the meeting can be held fairly and transparently in this format. In addition:

- The governing body or IRP must hold the meeting via remote access subject to the above and if the request has been made correctly;
- Where the parent *does not* request remote access, it should be held in person - unless it is not reasonably practicable to do so⁴; and
- Where technological issues prevent the meeting being held fairly and transparently (eg. all participants able to put forward their views and be seen and heard), a face to face meeting must be arranged as soon as possible.

Additional detail can be found in Part 11 of the statutory guidance.

2.10. School registers

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

- 15 school days have passed since the parents were notified of the governing board'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 within 15 school days, the governing board will **wait** until that review has concluded before removing a pupil's name from the register.

While the pupil's name remains on the school's admission register, the pupil's attendance will still be recorded appropriately. 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.

Making a return to the LA

Where a pupil's name is to be removed from the school admissions register because of a permanent exclusion, the school will make a return to the LA. The return will include:

⁴ Due to unforeseen circumstances or school closure such as natural disasters/infectious disease. Additional detail is available in Section 11 of the Guidance.

- The pupil's full name;
- The full name and address of any parent with whom the pupil normally resides;
- At least 1 telephone number at which any parent with whom the pupil normally resides can be contacted in an emergency;
- The grounds upon which their name is to be deleted from the admissions register (i.e., permanent exclusion) ;
- Details of the new school the pupil will attend, including the name of that school and the first date when the pupil attended or is due to attend there, if the parents have told the school the pupil is moving to another school; and
- Details of the pupil's new address, including the new address, the name of the parent(s) the pupil is going to live there with, and the date when the pupil is going to start living there, if the parents have informed the school that the pupil is moving house

This return must be made as soon as the grounds for removal is met and no later than the removal of the pupil's name.

2.11. Returning from a suspension

2.11.1. Reintegration strategy

Following suspension, the school will put in place a strategy to help the pupil reintegrate successfully into school life and full-time education.

Where necessary, the school will work with third-party organisations to identify whether the pupil has any unmet special educational and/or health needs.

The following measures may be implemented, as part of the strategy, to ensure a successful reintegration into school life:

- The points below are suggestions only and should be adapted to your school's specific circumstances;
- Maintaining regular contact during the suspension or off-site direction and welcoming the pupil back to school;
- Daily contact in school with a designated pastoral professional;
- Mentoring by a trusted adult or a local mentoring charity;
- Regular reviews with the pupil and parents to praise progress being made and raise and address any concerns at an early stage;
- Informing the pupil, parents and staff of potential external support; and
- Any other local provisions put in place by the Leadership Team of the school concerned.

Part-time timetables will not be used as a tool to manage behaviour and, if used, will be put in place for the minimum time necessary.

The strategy will be regularly reviewed and adapted where necessary throughout the reintegration process in collaboration with the pupil, parents, and other relevant parties.

2.11.2. Reintegration meetings

The school will explain the reintegration strategy to the pupil in a reintegration meeting before or on the pupil's return to school. During the meeting the school will communicate to the pupil that they are getting a fresh start and that they are a valued member of the school community.

The pupil, parents, a member of senior staff, and any other relevant staff will be invited to attend the meeting.

The meeting can proceed without the parents in the event that they cannot or do not attend.

The school expects all returning pupils and their parents to attend their reintegration meeting, but pupils who do not attend will not be prevented from returning to the classroom.

2.12. Monitoring and reporting arrangements

As per the statutory guidance, within 14 days of a request, a governing board must provide to the Secretary of State⁵, certain information about pupils suspended or permanently excluded within the last 12 months. The data required is detailed in the [Education \(Information About Individual Pupils\) \(England\) Regulations 2013, which lists, in Schedule 2](#), the specific information required to be reported on in the case of excluded pupils. A copy of the information listed in Schedule 2 is provided as [Appendix 3](#) to this document. This information is collected at School and Trust level, and is regularly reviewed by the Standards and Community of the Trust Board, and then by the Board itself.

The school will use the results of this analysis to make sure it is meeting its duties under the Equality Act 2010. If any patterns or disparities between groups of pupils are identified by this analysis, the school will review its policies in order to tackle it.

The Trust will work with its schools to consider this data, and to analyse whether there are patterns across the Trust, recognising that numbers in any school may be too low to allow for meaningful statistical analysis.

⁵ In the case of maintained schools and PRUs only, this information must ALSO be provided to the Local Authority.

2.13. Appendix 1: Independent Review Panel training

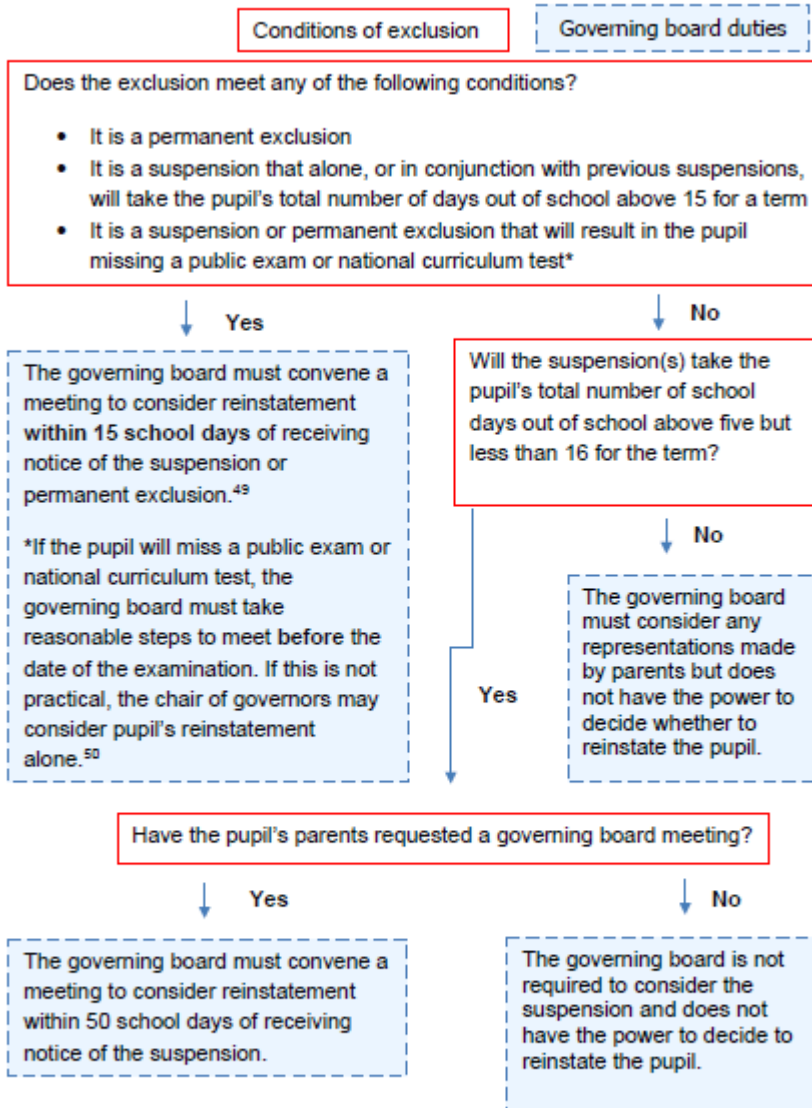
The Trust will make sure that all members of an independent review panel and clerks have received training within the 2 years prior to the date of the review.

Training must have covered:

- The requirements of the primary legislation, regulations and statutory guidance governing suspensions and permanent exclusions on disciplinary grounds, 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

2.14. Appendix 2 - A summary of the governing board’s duties to review the Headteacher’s decision

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



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

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

2.15. Appendix 3 - Summary of the Schedule 3 of the legislation referred to in 2.11

PART 2 Excluded pupils

19.—(1) Subject to sub-paragraph (2), in respect of each pupil who has been excluded from the school (whether permanently or otherwise) and whose exclusion start date was during such period as is specified in the request for information, where that specified period falls within in the twelve months preceding that request, the exclusion start date, and the information in the following paragraphs as it existed on the exclusion start date.

(2) This Part does not apply to a pupil referred to in sub-paragraph (1) where the pupil is subsequently reinstated by the governing body or, where appropriate, the proprietor of the school.

20. The pupil's—

- (a) gender;
- (b) date of birth;
- (c) unique pupil number, and, where the school has held a previous unique pupil number for that pupil, the previous number;
- (d) surname, and where the pupil has a former surname which is known to the governing body or, where appropriate, the proprietor, that former surname;
- (e) first name or, if more than one, each first name;
- (f) date of admission to the school, and
- (g) (where applicable) date of leaving the school.

21. Whether the pupil was part-time.

22. Where the pupil had special educational needs, which special educational needs provision type was being made for him.

23. Whether the pupil was, to the knowledge of the governing body or, where appropriate, the proprietor, a looked-after child.

24. Whether the exclusion is or was—

- (a) for a fixed period (otherwise than as specified in sub-paragraph (b));
- (b) for a fixed period or periods between the morning and the afternoon school sessions(22); or
- (c) permanent.

25. Where the exclusions is or was for a fixed period, the number of sessions to which the exclusion applies or applied.

26. The reason for the exclusion.