

**Suspension and Exclusion Policy**

<b>Date</b>	<b>Review Date</b>	<b>Head Teacher</b>	<b>Chair of Governors</b>
<b>November 23</b>	<b>Jan 25</b>	<b>Sally Reay</b>	<b>Laura Winton</b>

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## **Statement of Intent**

At Clipstone Brook Lower School, we understand that good behaviour and discipline are essential for promoting high-quality education.

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

The school has created this policy to clearly define the legal responsibilities of the Headteacher, governing board, and LA when responding to pupil suspensions and exclusions to ensure that they are dealt with fairly and lawfully and in line with DfE statutory guidance. This policy also aims to secure a pupil's right to an education despite being suspended or excluded by ensuring appropriate arrangements are in place.

A “**suspension**” temporarily removes a pupil from the school for behaviour management purposes. A pupil may be suspended for one or more fixed periods, up to 45 school days in a single academic year. A suspension does not have to be for a continuous period.

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

## **Legal framework**

This policy has due regard to all relevant legislation, including, but not limited to, the following:

Education Act 1996

Education Act 2002

Education and Inspections Act 2006

The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007

Equality Act 2010

The School Discipline (Pupil Exclusions and Reviews) (England) (Amendment and Transitional Provision) Regulations 2023

The European Convention on Human Rights (ECHR)

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

DfE (2023) 'Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement.'

DfE (2022) 'Behaviour in Schools'

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DfE (2015) 'Special educational needs and disability code of practice: 0 to 25 years'

DfE (2018) 'Mental health and behaviour in schools'

This policy operates in conjunction with the following school policies:

Behaviour Policy

Anti-bullying Policy

Pupil Code of Conduct

Special Educational Needs and Disabilities (SEND) Policy

Child Protection and Safeguarding Policy

## **Roles and responsibilities**

### **The LA is responsible for:**

Having due regard to the relevant statutory guidance when carrying out its duties about the education of LAC.

Arranging suitable full-time education for any pupil of compulsory school age excluded permanently, in coordination with the school.

Review and reassess pupils' needs in consultation with their parents, where they have an EHC plan and are excluded permanently to identify a new placement.

Arranging for an independent review panel hearing to review the governing board's decision not to reinstate a permanently excluded pupil where required. Setting for the independent review panel hearing to be held via remote access where requested by parents or excluded pupils aged 18 and over.

Arranging the hearing without delay at a time, date, and venue convenient for all parties.

Ensuring the independent review panel consists of three or five appropriate members representing the required categories.

Ensuring all panel members and the clerk have received training within the two years before the review date.

If parents request, appoint a SEND expert to attend the panel and cover the associated costs of this appointment.

The governing board is responsible for

Providing information to the Secretary of State and LA about any suspensions and exclusions within the last 12 months.

Arranging suitable full-time education for any pupil of compulsory school age who is suspended, where required.

Consider parents' representations about suspensions and exclusions within 15 school days of receiving notice if the appropriate requirements are met.

Where a suspension or exclusion would result in a pupil missing a public examination or test, considering the suspension or exclusion before this date.

Consider whether it would be appropriate for a pupil to be permitted onto the school premises to sit the public examination or test.

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Arranging the representation meeting at a time and date convenient to all parties but in compliance with the statutory time limits.

Arranging for the representation meeting to occur via remote access where requested by parents or excluded pupils aged 18 and over.

Adhering to its responsibilities to consider the reinstatement of pupils.

Considering the interests and circumstances of the suspended or excluded pupil, including the circumstances in which they were suspended or excluded, and have due regard to the interests of others at the school.

Using the civil standard of proof (based on the 'balance of probabilities,' it is more than likely that the fact is true) when establishing the facts relating to a suspension or exclusion.

Ensuring clear minutes are taken of the representation meeting.

Noting the outcome of the representation meeting on the pupil's education record, along with copies of relevant papers for future reference.

Notifying the pupil's parents, the Headteacher, and the LA of its decision and its reasons, without delay.

**This is not statutory. Where not appointed, the responsibilities should be assumed by the LA.**

The clerk to the suspensions and exclusions review panel is responsible for:

Informing the appropriate individuals that they are entitled to:

Make written representations to the panel.

Attend the hearing and make oral representations to the panel.

Be represented.

Circulate copies of relevant papers to all parties at least five school days before the review.

Giving all parties details of those attending and their role once the position is clear.

Attending the review and ensuring that minutes are produced per the panel's instructions within the policy's timeframe.

**The Headteacher is responsible for:**

Implementing good levels of discipline ensures all pupils can benefit from the opportunities provided by education and minimises potential suspensions and exclusions.

Applying the civil standard of proof when establishing the facts concerning a suspension or exclusion.

Complying with their statutory duties concerning pupils with SEND when administering the suspension or exclusion process, as outlined in the Special Educational Needs and Disabilities (SEND) Policy.

Consider any contributing factors that are identified after an incident of poor behaviour has occurred, e.g., if a pupil has suffered bereavement, experienced bullying, or has a mental health issue.

Consider using a multi-agency assessment for a pupil who demonstrates persistent disruptive behaviour.

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Reviewing the effectiveness of suspensions and exclusions as sanctions, e.g., if a pupil has received multiple suspensions or is approaching the legal limit for suspensions in an academic year.

Consider what extra support may be needed to identify and address the needs of individual pupils, particularly those with SEND, those eligible for FSM and LAC, and those from certain ethnic groups.

Engaging effectively with parents in supporting the behaviour of pupils with additional needs.

Determining whether a pupil will be suspended or excluded on disciplinary grounds.

Adhering to their responsibilities when cancelling an exclusion before the governing board has met to consider whether the pupil should be reinstated. Withdrawing any suspensions or exclusions that the governing board, where appropriate, has not reviewed.

Ensuring any decision to suspend or exclude is lawful, rational, reasonable, fair, and proportionate.

Complying with the Equality Act 2010 requirements when deciding whether to suspend or exclude a pupil.

Ensuring they have considered their legal duty of care when sending a pupil home following a suspension or exclusion.

Deciding to suspend or exclude based on the evidence available at the time, regardless of any police investigation and/or criminal proceedings.

Notifying a pupil's parents without delay where the decision is taken to suspend or exclude the pupil, including the days on which the parents must ensure the pupil is not present in a public place during school hours, as well as any other necessary information statutorily required.

Ensuring that all information provided to parents is clear and easily understood.

Notifying the governor responsible and LA of their decision to exclude a pupil where appropriate and the pupil's home authority if required.

Notifying the governing board once per term of any exclusions in the Headteacher's report to governors.

Organising suitable work for excluded pupils where alternative provisions cannot be arranged.

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

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

The following examples of behaviour may warrant the decision to suspend or exclude a pupil:

- Physical assault against a pupil
- Physical assault against an adult
- Verbal abuse or threatening behaviour against a pupil
- Verbal abuse or bad behaviour against an adult
- Use, or threat of use, of an offensive weapon or prohibited item
- Bullying

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- Discriminatory abuse, e.g., racist, homophobic, biphobic, transphobic, or ableist abuse
- Refusal to follow adult instructions where attempts have been made to de-escalate the situation.

Pupils can be suspended on a fixed-period basis, i.e., for up to 45 school days within a year, or permanently excluded. Similarly, pupils can be permanently banned after suspension, where further evidence is presented. In all cases, the Headteacher will decide whether a pupil will be suspended or excluded, depending on the circumstances warrant.

The school can direct a pupil off-site to improve their behaviour.

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

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

The Headteacher can suspend pupils if their behaviour is disruptive during lunchtime. All lunchtime suspensions will be counted as half of a school day. The Headteacher can also consider a pupil's disruptive behaviour outside of the school premises as grounds for suspension or exclusion by the school's Behaviour Policy.

When sending a pupil home following any suspension or exclusion, the Headteacher will ensure they exercise their duty of care and always inform the parents as part of a wider school team communication. .

Any decision to suspend or exclude a pupil will be lawful, proportionate, and fair concerning legislation relating directly to suspensions and exclusions and the school's broader legal duties, including the ECHR. At all times, the Headteacher will take into account their legal responsibilities under the Equality Act 2010 and the 'Special educational needs and disability code of practice: 0 to 25 years', ensuring that they do not discriminate on any grounds, e.g., race, sex, or disability, and will not increase the severity of a pupil's suspension or exclusion on these grounds.

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

The Headteacher may cancel any suspension or exclusion that has already begun or has yet to begin; however, this power will only be used if the governing board has yet to review the exclusion.

Where a suspension or exclusion is cancelled, the Headteacher will notify the pupil's parents, the governing board, the LA, and, where relevant, the virtual school head (VSH) and the pupil's social worker. The notification will also provide the reason for the cancellation. The Headteacher will offer the pupil's parents the opportunity to meet with the Headteacher to discuss the circumstances that led to the cancellation of the exclusion, and the pupil will be allowed back into school without delay. When a suspension or exclusion is cancelled, the governing board's duty to consider reinstatement ceases, and there is no requirement to hold a meeting.

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Any days spent out of school due to a suspension or exclusion before it is cancelled will count towards the maximum 45 school days a pupil can be suspended or excluded in an academic year. A permanent exclusion will not be cancelled if the pupil has already been suspended or excluded for more than 45 school days in an academic year or if they will have been so by the time the cancellation takes effect.

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

The Headteacher will not issue any 'informal' or 'unofficial' suspensions or exclusions, e.g., sending a pupil home to 'cool off,' regardless of whether the parents agree. The Headteacher will not use the threat of suspension or exclusion to instruct parents to remove their child from the premises.

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

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

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

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

Consider any contributing factors identified after a case of poor behaviour has occurred, e.g., if the pupil's wellbeing has been compromised or they have been subjected to bullying.

Consider whether the pupil has received multiple suspensions or is approaching the legal limit of 45 suspended days per school year and whether suspension serves as an effective sanction.

Consider early intervention to address underlying causes of disruptive behaviour, including liaising with external agencies to assess pupils who demonstrate consistently poor behaviour where possible and available.

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

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

The Headteacher will **consider** avoiding excluding LAC, those with SEMH issues or pupils with an EHC plan. Where any staff member has concerns about vulnerable pupil groups and their behaviour, they will report this to the Headteacher, who will instigate a multi-agency assessment to determine whether the behavioural issues might result from educational, mental health, or other needs and vulnerabilities.

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Where SEND or SEMH issues are identified, an individual behaviour plan will be created using the graduated response outlined in the school's Behaviour Policy. If the pupil continues to endanger other pupils or staff's physical or emotional well-being, then suspension or exclusion will be considered. By the Equality Act 2010, under no circumstances will a pupil with **identified** SEND or SEMH issues be suspended or excluded before a consideration has been completed.

Where a pupil with SEND or SEMH issues is excluded because of a SEND- or SEMH-related need that could not be met at the school, detailed records will be kept highlighting that these pupils are closely tracked. The school will work with the parents and the SEND Team of any pupil with additional needs to establish the most effective support mechanisms as available.

## **Preventative measures**

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

### **Off-site direction**

Under the Education Act 2002, the governing board may require any registered pupil to attend at any place outside the school premises to receive educational provisions intended to improve their behaviour.

The governing board will notify parents and the LA if the pupil has an EHC plan in writing with information about the placement no later than two school days before the relevant day.

The school will keep any off-site placements under review by holding review meetings at intervals deemed appropriate by the governing board; the governing board will ensure, where possible, that review meetings are convened at a time suitable for the pupil's parents and will invite parents in writing to each review meeting no later than six days before that date. Where parents request, in writing, that the governing board hold a review meeting, the governing board will arrange review meetings in response as soon as is reasonably practicable, unless there has been a review meeting in the previous ten weeks.

At each review meeting, the governing board will decide whether the arrangement will continue and for what time; the meeting will also decide arrangements for further reviews. Reviews will be recorded in writing, including any decisions made regarding the placement.

## **Managed moves**

Where it is thought to be in a pupil's best interest to transfer them to another mainstream school permanently, the Headteacher and governing board will discuss this with the parents of the pupil, and the LA if the pupil has an EHC plan – managed moves will only go ahead with the voluntary agreement of all parties involved, including the parents and the admission authority of the new school.

The school will ensure that detailed records are kept of any decision to initiate a managed move, including evidence that appropriate initial intervention has been carried out. The school will share information with the pupil's new school, including sending data on prior and current attainment, academic potential, and any risk management strategies. The school will also cooperate with the pupil's new school to create an effective integration strategy.

Parents concerned that a managed move is being forced on them or who are unhappy with a managed move will be referred to the Complaints Policy and Procedure.

## **Duty to inform parents**

Following the Headteacher's decision to suspend or exclude a pupil, they will immediately inform the parents or the excluded pupil if they are 18 or older, in person or by telephone, supported by email communication, of the period of the suspension, or permanency of the exclusion, and the reasons behind this.

The Headteacher will inform the parents in writing of the following:

The reasons for the suspension or exclusion

The length of the suspension or permanency of the exclusion

Their right to raise any representations about the suspension or exclusion to the governing board including how the pupil will be involved in this and how the representations will be made

Their right to make a request to hold the meeting via remote access and how this request can be made

Their right to attend a meeting where there is a legal requirement for the governing board to consider the suspension or exclusion, and the fact that they are able to bring an accompanying individual

The arrangements that have been made for the pupil to continue their education prior to the organisation of any alternative provision, or the pupil's return to school

Relevant sources of free, impartial information

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

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

The start and end date for any provision of full-time education

The address at which the provision will take place

Any information necessary for the pupil to identify the person they should report to on the starting date

Where the Headteacher is unable to provide information on alternative provision by the end of the afternoon session, they will provide the information in a subsequent written notice without further delay, and within 48 hours of the pupil beginning the provision. If the alternative provision is due to begin before the sixth day of the suspension or exclusion, the Headteacher can give less than 48 hours of notice, with parental consent.

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

## **Duty to inform the governing board and LA**

The Headteacher will inform the governing board, without delay, of the following:

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Any permanent exclusions (including where a suspension is followed by a decision to exclude the pupil permanently)

Any suspensions which would result in the pupil being suspended for more than five school days in a term (or more than ten lunchtimes)

Any suspensions or exclusions which would result in the pupil being absent from an examination or national curriculum test

For any suspensions and exclusions, other than those above, the Headteacher will notify the governing board once per term.

Without delay, the Headteacher will inform the LA of all suspensions or exclusions, regardless of their length.

All notifications to the governing board and LA will include the reasons for suspension or exclusion and the duration of any suspension.

If a pupil who is suspended or excluded lives outside the LA in which the school is located, the Headteacher will notify the pupil's 'home authority'.

### **Duty to inform social workers and the virtual school head (VSH)**

When a pupil has been suspended or excluded, the Headteacher will, without delay, notify the pupil's social worker, if they have one, and the VSH, if they are a looked-after child. This notification will include any suspension period and the reasons for suspension or permanent exclusion.

Social workers and/or the VSH will also be informed when a governing board meeting is taking place, and will be invited to attend the meeting should they wish to do so.

Social workers and VSHs will be allowed to join a governing board meeting or independent review panel via the use of remote access, as long as the arranging authority is satisfied they will be able to participate effectively, they can hear and be heard throughout the meeting, and their remote participation will not prevent the meeting being fair and transparent.

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

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

The governing board will not arrange full-time education for any pupil currently in their final year of compulsory education, and who has no further public examinations to sit.

The governing board knows that it is beneficial for suspended and excluded pupils to begin their alternative education arrangements before the sixth day of suspension or exclusion; therefore, the governing board will always attempt to arrange alternative provisions before the sixth day.

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Where it is impossible to arrange alternative provisions during the first five days, the school will ensure they take reasonable steps to set and mark work for the pupil.

If a pupil with SEND has been suspended or excluded, the governing board will ensure that: Any alternative provision is arranged in consultation with the pupil's parents, who can request preferences.

When identifying alternative provisions, any EHC plan is reviewed, or the pupil's needs are reassessed in consultation with the pupil's parents.

## **Considering suspensions and exclusions**

The governing board will consider any representations made by parents regarding suspensions and exclusions.

Parents and, where requested, a friend or representative, the Headteacher, and a member of the LA will be invited to attend any consideration of suspensions and exclusions and will be able to make representations.

Any meeting to consider reinstatement of a pupil will be arranged at a date and time convenient for all parties and in compliance with any statutory time limits. Parents and excluded pupils, if they are over 18, can also request that the meeting be held via remote access.

Where it is appropriate to the pupil's age and level of understanding, the pupil will also attend any consideration meeting and be enabled to make a representation on their behalf if they desire to do so.

The governing board will consider the reinstatement of a suspended or excluded pupil where:  
The exclusion is permanent.

The suspension is fixed-period and would bring the pupil's total number of suspended school days to more than 15 in any given term.

The suspension or exclusion would result in the pupil missing a public examination.

In the case of a suspension where the pupil's total number of suspended days is more than five but less than 16 school days (this includes suspensions that exceed 15 school days by less than a whole day, e.g., one that totals 15.5 days) within a term, if parents make representations, the governing board will consider suspensions within 50 school days of receiving the notice of suspension. Without any parental representations, the governing board will consider the reinstatement on its own.

Where a suspension will take a pupil's total number of school days out of school above five but less than 15 for the term, and parents have not requested a governing board meeting, the governing board will not be required to consider the pupil's reinstatement. Still, it will have the power to do so if it deems it appropriate.

Where a suspension will not bring a pupil's total number of days of suspension or permanent exclusion to more than five days in a term, the governing board will consider all representations made by parents; however, the board cannot direct the reinstatement of the pupil, and it is not required to arrange a meeting with parents.

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When considering the reinstatement of a pupil, the governing board will:

Only discuss the suspension or exclusion with the parties present at the meeting.

Ask for any written evidence before the meeting.

Circulate any written evidence and information to all parties at least five school days before the meeting.

Allow pupils and parents to accompany a person of their choice to the meeting.

Consider what reasonable adjustments need to be made to support the attendance and contribution of parties at the meeting.

Identify the steps needed to enable and encourage the suspended or excluded pupil to attend the meeting and speak on their behalf or how they may contribute personal views by other means if attendance is not possible.

Consider the interests and circumstances of the pupil, including the grounds for suspension or exclusion.

### **Reaching a decision**

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

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

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

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

To reach a decision, the governing board will:

- Identify the steps they intend to take to ensure that all parties involved will have the opportunity to participate and present their views.
- Ensure that minutes are taken of the meeting as a record of the evidence that was considered.
- Ask all parties to withdraw from the meeting before concluding their decision.
- Consider whether the suspension or exclusion of the pupil was lawful, proportionate, and fair, considering the Headteacher's legal duties and any evidence presented to the governing board concerning the decision.
- Record the outcome of the decision on the pupil's educational records, along with copies, which will be kept for at least six months.
- Inform the LA of the outcome.

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- Make a note of their findings, where they have considered a suspension or exclusion but cannot reinstate the pupil.

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

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

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

That the exclusion is permanent.

Of their right for it to be reviewed by an independent review panel.

Of the date by which an application for review must be made.

Of the name and address of whom the review application should be submitted.

That a request to hold the meeting via remote access and how to do this can be made.

Any application should set out the grounds on which it is being made and that, where appropriate, this should reference how a pupil's SEND is considered relevant to the exclusion. Regardless of whether a pupil has been identified as having SEND, the parents have a right to require the governing board to ensure a SEND expert attends the review.

Of the role of the SEND expert that will attend the review, and that the parents will not be charged for this.

They are required to make it clear if they wish for a SEND expert to attend the review.

They may appoint someone at their own expense to represent the panel.

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

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

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

The Headteacher will remove pupils from the school register if:

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

Suppose an application for an independent panel review has been made within 15 school days. In that case, the Headteacher will wait until the review has been determined or abandoned and

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

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

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

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

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

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

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

### **Independent review panel**

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

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

A lay member to chair the panel. This individual will not have worked in any school in a paid capacity

A current or former school governor who has served for at least 12 consecutive months in the last five years

A Headteacher or individual who has been a Headteacher within the last five years

Parents are required to submit their applications within:

15 school days of the governing board's notification of their decision.

15 school days of the final determination of a discriminatory claim made under the Equality Act 2010. Parents can request that independent review panels occur via remote access.

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

The LA will adhere to all statutory guidelines when conducting an independent panel review, as outlined in the DfE's statutory guidance.

## **Appointing a SEND expert**

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

The LA will make arrangements to indemnify the SEND expert against any legal costs and expenses reasonably incurred due to any decisions or actions connected to the review and which are taken in good faith.

An individual will not serve as a SEND expert if they have, or at any time have had, any connection with the LA, school, parents, or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their ability to act impartially; however, an individual is not taken to have such a connection solely because they are an employee of the LA.

The SEND expert will be a professional with first-hand experience in the assessment and support of SEND and an understanding of the legal requirements for schools to SEND. Examples of suitable individuals include educational psychologists, specialist SEND teachers, SENCOs, and behaviour support teachers.

Recently retired individuals are not precluded from fulfilling this role; however, during the interview, the LA will assess the knowledge of such individuals to ensure that they understand current practice and the legal requirements on schools about SEND.

While individuals are not automatically taken to be partial simply because they are an employee of, or contracted by the LA, they will not have had any previous involvement in the assessment or support of SEND for the excluded pupil or siblings of the excluded pupil. The LA will request that prospective SEND experts declare any conflict of interest as soon as possible.

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

The LA will determine the amount of any payment for the appointment of the SEND expert, such as financial loss, travel, and subsistence allowances.

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

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

The SEND expert's advice will focus on whether the school's policies, which relate to SEND or the application of these policies about the excluded pupil, were legal, reasonable, and procedurally fair. If the SEND expert believes this was not the case, they will, where possible,

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advise the panel on the possible contribution this could have made to the circumstances of the pupil's exclusion.

Where the school does not recognise that a pupil has SEND, the SEND expert will advise the panel on whether they believe the school acted in a legal, reasonable, and procedurally fair way concerning the identification of any SEND that the pupil may potentially have and any contribution that this could have made to the circumstances of the pupil's exclusion.

The SEND expert will not criticise a school's policies or actions simply because they believe a different approach should have been followed or another school might have taken a different one.

### **Appointing a clerk**

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

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

### **The role of the clerk**

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

The clerk will:

Identify, in advance of the meeting, whether the excluded pupil wishes to attend the panel hearing, taking reasonable steps to enable the pupil to give feedback on their views, irrespective of their attendance.

Before the meeting, identify whether any alleged victims of the incident leading up to the exclusion wish to attend the panel hearing, taking reasonable steps to enable them to give feedback on their views, irrespective of their attendance.

Ensure that the panel can hear from any witnesses to the incident leading to the exclusion, considering that some of these people may be pupils at the school. Pupils under 18 cannot appear in person without parental consent.

Inform the parents, Headteacher, and governing board that they are entitled to make oral and written representations to the panel, attend the hearing, and be represented.

Inform the LA that it is entitled to make oral and written representations to the panel, attend the hearing, and be represented.

Ensure that all parties are:

Provided with copies of relevant papers at least five school days before the review, notifying the panel if any requested documents have not been provided in case the panel wishes to adjourn until a later date.

Informed about who is attending the meeting and what their roles are.

To attend the review and ensure that instructions from the independent review panel produce minutes.

Where a clerk is not appointed, the LA will undertake the abovementioned functions.

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

The panel's role is to review the governing board's decision not to reinstate an excluded pupil. In reviewing the decision, the panel will consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and regard the interests of other pupils and people working at the school. The panel will apply the civil standard of proof rather than the criminal standard of 'beyond reasonable doubt'.

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

Uphold the decision

Recommend that the governing board reconsiders reinstatement

Quash the decision and direct that the governing board reconsiders reinstatement

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

## **Conducting governing board meetings or independent review panels via remote access**

Parents, or excluded pupils if they are 18 or older, will be able to request that governing board meetings or independent review panels be held via remote access; however, parents and pupils will be made aware that this is not the default option.

Where a parent or pupil makes a request correctly in line with instructions set out in the Headteacher's or governing board's written notification, the governing board or LA will hold the meeting via remote access.

Timelines for face-to-face meetings will hold remote meetings and panels.

Where a request for a meeting to be held via remote access is not made, or the parent or pupil does not state a preference, the meeting or panel will be held in person unless it is not practicable to do so.

Suppose there is a reason related to extraordinary events or unforeseen circumstances, e.g., an outbreak of an infectious illness, which means it is not reasonable for a meeting or panel to be held in person. In that case, it may be held via remote access.

Meetings will only be held via remote access if the governing board or LA is satisfied that the meeting can be held fairly and transparently. If this cannot be done, the governing board or LA will consult with the parent to discuss how a face-to-face meeting that will be convenient for them can be arranged.

Suppose there are technological or internet issues during a remote meeting that compromise the ability for participants to be seen or heard or prevent the meeting from being held fairly and transparently, and it is not reasonably practicable to resolve. In that case, a face-to-face meeting will be arranged without delay.

When holding meetings or panels via remote access, the governing board or LA will:

Comply with relevant equalities legislation.

Enable access to support the parent is entitled to, including the presence of a friend.

Confirm with all participants that they have access to the technology that will allow them to participate in the meeting or panel.

Ensures all the participants can express their viewpoint and/or fulfil their function.

Ensure the remote meeting or panel can be held fairly and transparently.

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Where a suspension or exclusion began before 1 September 2023, and a governing board meeting has not yet been held, the Headteacher will notify the parent, either on 1 September or as soon as possible afterward, that they can ask the governing board to hold the meeting via the use of remote access. This also applies if an exclusion began before 1 September and the parent is entitled to make representations but has not yet done so. The Headteacher's notification will explain how requests must be made and to whom and that requests must be made within three school days of the notification.

Where an exclusion began before 1 September 2023 and an independent review panel has not yet been held, the governing board must notify the parent, either on 1 September or as soon as possible, that they can ask the independent review panel to hold the meeting via the use of remote access. This also applies if an exclusion began before 1 September and the parent is entitled to apply for an independent review panel but has not yet done so. The notification will explain how requests must be made and to whom and that requests must be made within three school days of the notification.

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

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

The school is aware that if the governing board does not offer to reinstate the pupil following an instruction to reconsider, then a £4,000 adjustment will be made to the school's budget.

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

Following reconsideration, the governing board will notify the parents, Headteacher, and LA of their reconsidered decision and the reasons for this.

### **Criminal investigations**

The Headteacher will not postpone deciding to suspend or exclude a pupil due to a police investigation being underway or any criminal proceedings that are in place.

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

If the governing board is required to consider the Headteacher's decision in these circumstances, they will not postpone the meeting and will decide based on the evidence available.

## **Training requirements**

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

The requirements of the legislation, regulations, and statutory guidance governing suspensions and exclusions.

The panel needs to observe procedural fairness and the rules of natural justice.

The role of the chair of a review panel.

The role of the clerk to a review panel.

The duties of Headteachers, governing boards, and the panel under the Equality Act 2010.

The effect of section 6 of the Human Rights Act 1998 and the need to act in a manner compatible with human rights protected by that Act.

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

## **Using data**

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

Consider the level of pupil moves and the characteristics of pupils who are moving on any permanent exclusions to ensure that this is only being used as a last resort.

Gather information on pupils who are taken off the roll and those who are on the roll but attending education off-site.

Consider the effectiveness and consistency in implementing the Behaviour Policy.

Understand any variations in the rolling average of permanent exclusions to ensure they are only used when necessary.

Understand the characteristics of suspended and excluded pupils and evaluate equality considerations.

Gather information on where pupils are receiving repeat suspensions.

Evaluate interventions in place to support pupils at risk of suspension and exclusion, including where there are patterns that may indicate that certain policies and support measures are or are not working.

Analysing whether the placements of pupils directed off-site into alternative provision are reviewed at sufficient intervals to ensure that the education achieves its objectives.

## **Monitoring and review**

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

