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## **Exclusion Guidance**

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## Statement of Intent

The Trust and its academies understand that good behaviour and discipline is essential for promoting a high quality of education. Amongst other disciplinary sanctions, the academy recognises that the suspension and, ultimately, the permanent exclusion, of pupils may be necessary where there has been a serious breach, or consistent breaches, of the academy's Behaviour Policy. The suspension or exclusion of a pupil may also be required in instances where allowing the pupil to remain in academy would be damaging to the education and welfare of themselves or others; in all cases, these measures should only be used as a means of last resort. This guidance document should be read in conjunction with the academy's Behaviour Policy and is predominantly for use when the decision to suspend or exclude has already been made, though the section "Grounds for suspension or exclusion" should be considered. This guidance is not intended to define when an exclusion should be issued.

The Trust has adopted and published this guidance to clearly define the legal responsibilities of the Trust, Headteacher, Local Academy Board ('LAB') and Local Authorities ('LA') when responding to pupil suspensions and exclusions, in order to ensure that they are dealt with both fairly and lawfully, and in line with DfE statutory guidance (*Exclusion from maintained schools, academies and pupil referral units in England: Statutory guidance for those with legal responsibilities in relation to exclusion, September 2023*)

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

Signed by:

_____	Headteacher	Date: _____
_____	Chair of Local Academy Board	Date: _____

## 1.0 Legal framework

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

- The Education Act 2002 (as amended by The Education Act 2011)
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- The Education and Inspections Act 2006
- The Education Act 1996
- The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007 (as amended 2014)
- The European Convention on Human Rights (ECHR)
- The Equality Act 2010

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

- DfE (2023) 'Exclusion from maintained schools, academies and pupil referral units in England'
- DfE (2016) 'Behaviour and discipline in schools'
- DfE (2015) 'Special educational needs and disability code of practice: 0 to 25 years'

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

- **Behavioural Policy**
- **Anti-Bullying Policy**

## 2.0 Grounds for exclusion

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

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

- Any incident which poses a risk to other pupils or members of staff, e.g., bringing a weapon onto the premises
- Any incidents which breach the law
- Persistent and severe bullying
- Verbal and physical abuse

- Constant disruption
  - A single, serious, and major incident, e.g., serious assault on another individual leading to injury
- 2.3 Pupils can be suspended on a fixed-period basis, i.e., up to 45 academy days within a year, or permanently. Similarly, pupils can be permanently excluded following a fixed-period suspension, where further evidence is presented.
- 2.4 In all cases, the Headteacher will decide which suspension or exclusion period a pupil will be subject to, depending on what the circumstances warrant.

### **3.0 The Headteacher's power to exclude.**

- 3.1 Only the Headteacher has the power to suspend or exclude a pupil from the academy and is able to decide whether this is on a fixed-period or permanent basis. All suspensions and exclusions will only be issued on disciplinary grounds.
- 3.2 The Headteacher is able to suspend pupils from the premises where their behaviour is disruptive during lunchtime. All lunchtime suspensions will be counted as half an academy day.
- 3.3 The Headteacher is able to consider a pupil's disruptive behaviour outside of the academy premises as grounds for suspension or exclusion, in accordance with the academy's Behaviour Policy.
- 3.4 Any decision made to suspend or exclude a pupil will be lawful, proportionate, and fair, with respect to legislation relating directly to exclusions and the academy's wider legal duties, including the ECHR.
- 3.5 All suspensions and exclusions will be formally recorded.
- 3.6 When sending a pupil home following any suspension or exclusion, the Headteacher will ensure that they exercise their duty of care at all times and will always inform the parents.
- 3.7 The Headteacher will apply the civil standard of proof when responding to the facts relating to a suspension or exclusion, i.e., that 'on the balance of probabilities' it is more likely than not that the facts are true.
- 3.8 The Headteacher may withdraw any suspension or exclusion that has not already been reviewed by the LAB.
- 3.9 At all times, the Headteacher will take into account their legal duties under the Equality Act 2010 and the special educational needs and disability code of practice: 0 to 25 years, ensuring that they do not discriminate on any grounds, e.g., race, sex, disability, and will not increase the severity of a pupil's suspension or exclusion on these grounds.

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

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

- 4.1 When considering the exclusion of a pupil, the Headteacher will:
- Allow the pupil the opportunity to present their case.
  - Take into account any contributing factors that are identified after a case of poor behaviour has occurred, e.g., if the pupil's wellbeing has been compromised, or they have been subjected to bullying.
  - Take into consideration whether the pupil has received multiple suspensions or is approaching the legal limit of 45 suspended days per academy year, and whether suspension is serving as an effective sanction.
  - Consider early intervention to address underlying causes of disruptive behaviour, including liaising with external agencies, to assess pupils who demonstrate consistently poor behaviour.
- 4.2 The Headteacher will consider what extra support may be available for vulnerable pupil groups whose exclusion rates are higher, in order to reduce their risk of suspension or exclusion, including the following:
- LAC
  - Pupils eligible for free school meals
  - Pupils with special educational needs and disabilities (SEND)
  - Certain ethnic groups
- 4.3 In light of the above, the Headteacher will consider avoiding permanently excluding LAC pupils or pupils with an Education, Health and Care (EHC) plan. For other vulnerable groups, additional support will be considered.
- 4.4 Where any member of staff has concerns about vulnerable pupil groups and their behaviour, they will report this to the Headteacher who will consider what extra support or alternative placement is required.
- 4.5 The Headteacher will work in conjunction with the parents of any pupil with additional needs, in order to establish the most effective support mechanisms.

## **5.0 Duty to inform parents.**

- 5.1 Following the Headteacher's decision to suspend or permanently exclude a pupil, they will immediately inform, in person or by telephone, the parents of the period of the suspension or the permanent exclusion and the reasons behind this.
- 5.2 The Headteacher will inform the parents in writing (electronically if written permission has been received from the parents for notices to be sent this way) of the following:
- The reason(s) for the suspension or permanent exclusion
  - The length of the suspension or, for a permanent exclusion, the fact that it is permanent.
  - Their right to raise any representations about the suspension or permanent exclusion to the Local Academy Board, including how the pupil will be involved in this and how the representations will be made.
  - Their right to attend a meeting where there is a legal requirement for the LAB to consider the suspension or permanent 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 academy.
  - Relevant sources of free, impartial information.
- 5.3 Where the pupil is of compulsory academy age, the Headteacher will inform the parents by the end of the afternoon session that:
- For the first five days of the suspension (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 academy hours without justification, and that parents may receive a penalty fine if they fail to do so.
- 5.4 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.
- 5.5 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.
- 5.6 If the alternative provision is due to begin before the sixth day of suspension, the Headteacher is able to give less than 48 hours of notice, with parental consent.



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

## **6.0 Cancelling exclusions**

- 6.1 The headteacher can cancel any exclusion that has already begun (or one that has not yet begun), but this can only happen when the LAB has not yet met to consider whether the pupil should be reinstated.
- 6.2 Where an exclusion is cancelled, the Headteacher must notify the parents, the local governors, the LA and the pupil's social worker and VSH as applicable, without delay. The notification must also provide:
- The reason for the cancellation.
  - The governing board's duty to consider reinstatement ceases, and there is no requirement to hold a meeting to consider reinstatement.
  - Parents (or the excluded pupil if they are 18 years or older) should be offered the opportunity to meet the Headteacher to discuss the circumstances that led to the exclusion being cancelled which should be arranged without delay;
  - 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 (see paragraph 6).
  - 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.

## **7.0 Duty to inform the Local Academy Board and Local Authority**

- 7.1 The Headteacher will inform the LAB, the Trust and LA, without delay, of the following:
- Any permanent exclusions (including where a suspension is followed by a decision to permanently exclude the pupil)
  - Any suspensions which would result in the pupil being excluded for more than five academy days in a term (or more than 10 lunchtimes)
  - Any suspension or permanent exclusion which would result in the pupil being absent from an examination or national curriculum test
  - For any suspensions, other than those above, the Headteacher will notify the LAB, Trust and LA at least once per term.

- All notifications to the LAB, Trust and LA will include the reasons for suspension or exclusion and the duration of any suspension.
- If the pupil who is suspended or excluded lives outside the LA in which the academy is located, the Headteacher will notify the pupil's 'home authority'.

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

- 7.1 For any suspension of more than five academy days, the LAB will arrange suitable full-time education for the pupil, which will begin no later than the sixth day of exclusion.
- 7.2 Where a pupil receives consecutive fixed-period exclusions, these will be regarded as cumulative, and full-time education will still have to be provided from the sixth day of suspension.
- 7.3 For permanent exclusions, full-time education will also be provided for the pupil from the sixth day of exclusion.
- 7.4 The LAB is aware that it is beneficial to suspended or excluded pupils to begin their alternative education arrangements before the sixth day of suspension or exclusion. The LAB will always attempt to arrange alternative provision before the sixth day of suspension or permanent exclusion.
- 7.5 Where it is not possible to arrange alternative provision during the first five days of suspension, the academy will ensure that they take reasonable steps to set and mark work for the suspended pupil.
- 7.6 If a pupil with SEND has been suspended or excluded, the LAB will ensure that:
  - Any alternative provision is arranged in consultation with the pupil's parents, who are able to request preferences.
  - When identifying alternative provision, any EHC plan is reviewed/the pupil's needs are reassessed, also in consultation with the pupil's parents.

## **8.0 Considering suspensions and permanent exclusion**

- 8.1 The LAB will consider any representations made by parents in regard to suspension or permanent exclusion.
- 8.2 Parents and, where requested, a friend or representative, the Headteacher and a member of the Trust will be invited to attend any consideration of exclusion and will be able to make representations. (Please see appendix B remote Access arrangements)
- 8.3 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.

- 8.4 The LAB will consider the reinstatement of a suspended or permanently excluded pupil, where:
- The exclusion is permanent.
  - The suspension is fixed period and would bring the pupil's total number of suspended academy days to more than 15 in any given term.
  - The suspension or permanent exclusion would result in the pupil missing a public examination.
- 8.5 In the case of a suspension where the pupil's total number of suspended days is more than five but less than 15 academy days within a term, if requested by the parents, the LAB will consider suspensions within 50 academy days of receiving notification.
- 8.6 In the case of a suspension, where the pupil's total number of excluded academy days does not amount to more than five, in the absence of any such representations, the LAB is not required to meet and cannot direct the reinstatement of the pupil.
- 8.7 Where suspension or permanent exclusion would result in a pupil missing a public examination, the LAB will consider the suspension/ permanent exclusion before the test to decide whether the pupil should be reinstated in time to take the examination.
- 8.8 If it is not practicable for a sufficient number of Local Governors to consider the decision before the examination, a smaller sub-committee will consider the suspension or permanent exclusion and decide whether or not to reinstate the pupil.
- 8.9 In light of the above, the LAB will also consider whether it would be appropriate to allow the suspended/ permanently excluded pupil to enter the premises to take the examination.
- 8.10 When considering the reinstatement of a suspended or permanently excluded pupil, the LAB will:
- Only discuss the exclusion with the parties present at the meeting.
  - Ask for any written evidence prior to the meeting.
  - Circulate any written evidence and information to all parties, at least five academy days in advance of the meeting.
  - Allow pupils and parents to be accompanied by a person of their choice at the meeting.
  - Consider what reasonable adjustments need to be made to support the attendance and contribution of parties at the meeting.
  - Identify the steps needed to enable and encourage the 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 excluded pupil, including the grounds for exclusion.

## **9.0 Reaching a decision**

- 9.1 After considering suspensions or permanent exclusions, the LAB will either:
- Decline to reinstate the pupil.
  - Direct the reinstatement of the pupil immediately, or on a specified date.
- 9.2 If reinstatement would make no practical difference, e.g., if the pupil has already returned to academy following a suspension or the parents make clear they do not want their child reinstated, the LAB will still consider whether the pupil should be officially reinstated, and whether the Headteacher's decision to suspend or permanently exclude the pupil was fair, lawful and proportionate, based on the evidence presented.
- 9.3 The LAB will apply the civil standard of proof when responding to the facts relating to an exclusion, i.e. that 'on the balance of probabilities' it is more likely than not that the facts are true.
- 9.4 In order to reach a decision, the LAB 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 permanent exclusion of the pupil was lawful, proportionate, and fair, taking into account the Headteacher's legal duties and any evidence that was presented to the LAB in relation to the decision to exclude.
  - Record the outcome of the decision on the pupil's educational records, along with copies, which will be kept for at least six months.
  - Make a note of their findings, where they have considered a suspension or permanent exclusion but cannot reinstate the pupil.

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

- 10.1 The LAB will notify the parents of the suspended or permanently excluded pupil, the Headteacher, the Trust and the LA of their decision following the consideration of a suspension or exclusion, in writing and without delay.

10.2 In the case of a permanent exclusion, where the LAB decides not to reinstate the pupil, they will notify the parents:

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

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

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

## **11.0 Removing permanently excluded pupils from the academy register**

11.1 The Headteacher will remove pupils from the academy register if:

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

11.2 If an application for an independent panel review has been made within 15 academy days, the Headteacher will wait until the review has been determined, or abandoned, and until the LAB has completed any reconsideration that the panel recommended or directed it to carry out, before removing the pupil from the academy register.

- 11.3 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 which were entered in the register.
  - The address of any parent with whom the pupil normally resides.
  - The grounds upon which the pupil's name is to be removed from the register.
- 11.4 Any return to the LA will be made as soon as the grounds for removal are met and no later than the date in which the pupil's name was removed.
- 11.5 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.
- 11.6 Whilst a pupil's name remains on the admissions register, the appropriate code will be used to mark the pupil's attendance:
- Code B: Education off-site
  - Code D: Dual registration
  - Code E: Absent and not attending alternative provision

## **12.0 Independent review panel**

- 12.1 The Trust will review the LAB's decision not to reinstate a permanently excluded pupil, if the parents submit their application for this within the required time frame.
- 12.2 Parents are required to submit their applications within:
- 15 academy days of the LAB's notification of their decision.
  - 15 academy days of the final determination of a discriminatory claim made under the Equality Act 2010.
- 12.3 Any application made outside of this timeframe will not be reviewed.
- 12.4 Parents are able to request an independent panel review even if they did not make a case to, or attend, the LAB's initial consideration of the exclusion.
- 12.5 The Trust will adhere to all statutory guidelines when conducting an independent panel review, as outlined in the DfE's statutory guidance document 'Exclusion from maintained schools, academies and pupil referral units in England' 2017.

### **13.0 Appointing a SEND expert**

- 13.1 If requested by parents in their application for an independent review panel, the Trust will appoint a SEND expert to attend the panel and cover the associated costs of this appointment.
- 13.2 The Trust will make arrangements to indemnify the SEND expert against any legal costs and expenses reasonably incurred as a result of any decisions or actions connected to the review and which are taken in good faith.
- 13.3 Parents have a right to request the attendance of a SEND expert at a review, regardless of whether the academy recognises that their child has SEND.
- 13.4 The SEND expert's role is set out in section 14 of this policy.
- 13.5 Individuals will not serve as a SEND expert if they have, or at any time have had, any connection with the Trust, Academy, 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 Trust.
- 13.6 The SEND expert will be a professional with first-hand experience of the assessment and support of SEND, as well as an understanding of the legal requirements on academies in relation to SEND. Examples of suitable individuals might include educational psychologists; specialist SEND teachers; special educational needs coordinators (SENCOs); and behaviour support teachers.
- 13.7 Recently retired individuals are not precluded from fulfilling this role; however, the Trust will, during interview, assess the knowledge of such individuals in order to ensure that they have a good understanding of current practice and the legal requirements on academies in relation to SEND.
- 13.8 Whilst individuals are not automatically taken to be partial simply because they are an employee of, or contracted by, the Trust, they will not have had any previous involvement in the assessment or support of SEND for the excluded pupil, or siblings of the excluded pupil. The Trust will request that prospective SEND experts declare any conflict of interest at the earliest opportunity.
- 13.9 The final decision on the appointment of a SEND expert is for the Trust to make, but it will take reasonable steps to ensure that parents have confidence in the impartiality and capability of the SEND expert. Where possible, this will include offering parents a choice of SEND expert. In order to meet its duties within the statutory time frame, the Trust will consider maintaining a list of individuals capable of performing the role of SEND expert in advance of a request.
- 13.10 The Trust will determine the amount of any payment in relation to the appointment of the SEND expert, such as financial loss, travel and subsistence allowances.

## **14.0 The role of a SEND expert**

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

## **15.0 Appointing a clerk**

- 15.1 The Trust will decide whether to appoint a clerk to the independent review panel, or to make alternative arrangements to administer the panel.
- 15.2 Where a clerk is appointed, the Trust will ensure that the clerk did not serve as clerk to the LAB when the decision was made not to reinstate the pupil.

## **16.0 The role of a clerk**

- 16.1 The clerk's role is to provide advice to the panel and parties to the review on procedure, law and statutory guidance on exclusions.
- 16.2 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 feedback their views, irrespective of their attendance.
  - Identify, in advance of the meeting, whether any alleged victims of the incident(s) leading up to the exclusion wish to attend the panel hearing, taking reasonable steps to enable them to feedback their views, irrespective of their attendance.



- Ensure that the panel is able to hear from any witnesses to the incident(s) leading to the exclusion, taking into account the fact that some of these people may be pupils at the academy (Pupils under 18-years-old will not be allowed to appear in person without parental consent).
- Inform the parents, Headteacher, and LAB that they are 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 academy 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.
- Attend the review and ensure that minutes are produced in accordance with instructions from the independent review panel.

16.3 Where a clerk is not appointed, the Trust will undertake the functions outlined in paragraphs 16.1 and 16.2 of this policy.

## **17.0 The duties of independent review panel members in the conduct of a review panel**

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

17.2 The panel will apply the civil standard of proof, (i.e. 'on the balance of probabilities' it is more likely than not that a fact is true) rather than the criminal standard of 'beyond reasonable doubt'.

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

- Uphold the decision.
- Recommend that the LAB reconsiders reinstatement.
- Quash the decision and direct that the LAB reconsiders reinstatement.

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

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

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

18.2 The academy is aware that if the LAB does not offer to reinstate the pupil, then the academy will be required to make a payment directly to the LA in which the academy is located.

- 18.3 If, following reconsideration, the LAB offers to reinstate the pupil but the parents decline, no adjustment will be made to the academy's budget.
- 18.4 Following reconsideration, the LAB will notify the parents, the Headteacher and the LA of their reconsidered decision and the reasons for this.

## **19.0 Criminal investigations**

- 19.1 The Headteacher will not postpone taking a decision to suspend or exclude a pupil due to a police investigation being underway, or any criminal proceedings that are in place.
- 19.2 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.
- 19.3 If the LAB is required to consider the Headteacher's decision in these circumstances, they will not postpone the meeting and will make a decision based on the evidence available.

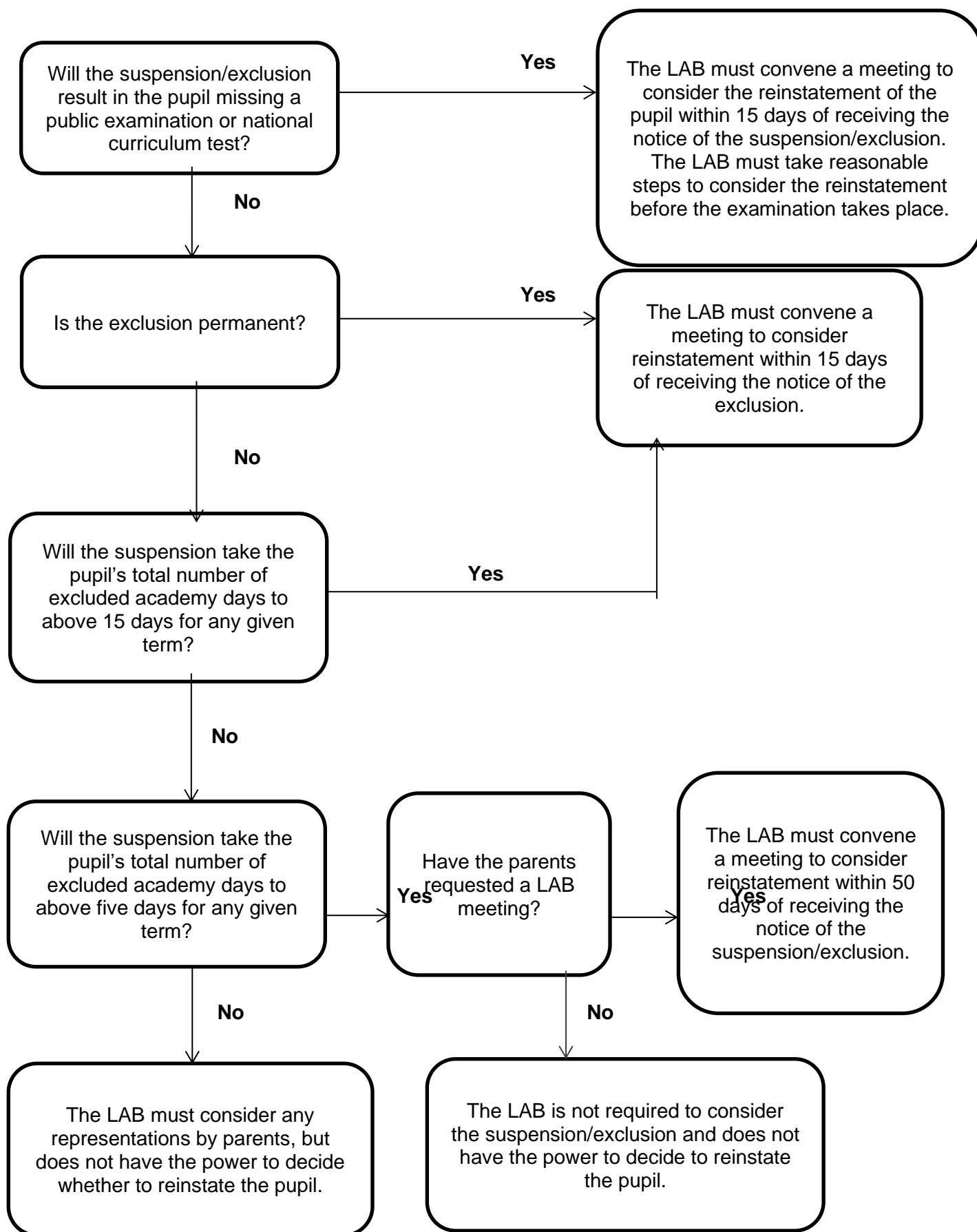
## **20.0 Training requirements**

- 20.1 The Trust will ensure that all independent review panel members and clerks have received training within the two years prior to the date of the review.
- 20.2 Training will cover:
- The requirements of the legislation, regulations, and statutory guidance governing exclusions.
  - The need for the panel to observe procedural fairness and the rules of natural justice.
  - The role of the Chair of Local Academy Board of a review panel.
  - The role of the clerk to a review panel.
  - The duties of Headteachers, LABs 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.
- 20.3 Clerks will also have an up-to-date understanding on developments in case law which are relevant to suspension or permanent exclusion.

## **21.0 Monitoring and review**

- 21.1 This policy will be reviewed in 3 years unless there are any legislative changes. This will be carried out in conjunction with the Headteacher and LAB.
- 21.2 All members of staff are required to familiarise themselves with this policy as part of their induction programme.

# Reviewing the Headteacher's Suspension or Exclusion Decision



**Requests for remote access meetings for Local Advisory Board meetings or IRPs**

Parents (if the pupil is under 18) or excluded pupils (if they are aged 18 years or older) can request a meeting to be held via the use of remote access but this should not be a default option.

LABs or arranging authorities must hold the meeting via the use of remote access, if the request has been made correctly as set out in the headteacher's written notification or the Local Advisory Board's written notification to the parents that they can request an IRP. Holding meetings via remote access must only be done if Local Advisory Boards or arranging authorities are satisfied that the meeting is capable of being held fairly and transparently.

**Remote access meeting duties**

If an IRP meeting is to be held face to face or via the use of remote access, the local authority/academy trust must take reasonable steps to identify a date for the review that all parties, and any SEN expert appointed to give advice, are able to attend or join. The review must begin within 15 school days of the day on which the parent's application for a review was made (panels have the power to adjourn a hearing if required).

Where a parent does not request a remote meeting or does not state a wish either way, Local Advisory Boards and arranging authorities must hold the meeting in person (information can be found in part seven, nine and eleven of this guidance) unless it is not reasonably practicable to do so in person for a reason related to extraordinary events or unforeseen circumstances such as an unforeseen school closure due to floods, fire or outbreak of infectious illness/disease.

If there are technological or internet network issues, during a meeting held via the use of remote access which compromises the ability for participants to be seen or heard or prevents the meeting from being held fairly and transparently and it is not reasonably practicable to resolve, a face-to-face meeting must be arranged by the Local Advisory Board or arranging authority, despite the parent's request. This should be done without delay.

Social workers and VSHs must be allowed to join a meeting via the use of remote access, regardless of the format chosen, as long as the Local Advisory Board (for a Local Advisory Board meeting) or arranging authority (for an IRP) are satisfied that they will be able to participate effectively, they can hear and be heard (and see and be seen if participating by video) throughout the meeting, and their remote participation will not prevent the meeting being fair and transparent. Further information can be found in paragraph 249.

Local Advisory Boards arranging authorities and panel members must:

- comply with relevant equalities legislation
- enable access to support which the parent is entitled to, including the presence of a friend

Local Advisory Boards, arranging authorities and panel members should ensure the following conditions are met for a meeting via remote access:

- confirm with all the participants that they have access to the technology which will allow them to hear and speak throughout the meeting, and to see and be seen, such as via a live video link
- ensure all the participants will be able to put across their point of view or fulfil their function

- ensure the remote meeting can be held fairly and transparently

### **Fairness and transparency during a meeting held via the use of remote access**

The Local Advisory Board or arranging authority must assess whether a meeting can be held fairly and transparently via remote access with reference to the facts of each case. Further information on key principles to consider when conducting and running meetings via the use of remote access can be found in Annex A of the guidance.

If a Local Advisory Board or arranging authority is not satisfied that a meeting can be held fairly and transparently via remote access, they should consult with the parent to discuss how a face to face meeting can be arranged that will be convenient for them.

### **Guidance for Social Workers and VSHs**

Should Social Workers or VSHs be joining a meeting that, as a whole, is taking place in person, they must be allowed to join via the use of remote access should they wish to do so.

#### **Use of remote access during an extraordinary event or unforeseen circumstance**

If there is a reason related to extraordinary events or unforeseen circumstances, such as an outbreak of infectious illness/disease, which means that it is not reasonably practicable for a Local Advisory Board meeting or IRP to be held in person; then this meeting may be held using remote access even if the parent has not asked for the meeting to be remote.

The meeting may be held via the use of remote access, provided the Local Advisory Board or arranging authority are satisfied that all participants will be able to fully make representations and carry out their functions, each participant has access to the electronic means to allow them to hear and be heard and (where using a live video link) see and be seen, throughout the meeting; and the meeting is capable of being held fairly and transparently.

**Updates****Date:**

Rebrand Trust name change

September 2019

Change title from 'policy' to 'guidance

September 2019

Statement of Intent added text

September 2019

*The Trust has adopted and published*

*This guidance document should be read in conjunction with the academy's Behaviour Policy, and is predominantly for use when the decision to exclude has already been made, though the section "Grounds for exclusion" should be considered. This guidance is not intended to define when an exclusion should be issued.*

*(Exclusion from maintained schools, academies and pupil referral units in England: Statutory guidance for those with legal responsibilities in relation to exclusion, September 2017)*

Amend LGB to LAB

January 2020

Amend Governor to Local Academy Board member

Review and approval

October 2020

Update all references to 'fixed-term exclusion' to 'suspension' in line with revised statutory guidance

May 2024

Cancelling suspensions and exclusions section 6.

Add Appendix B about remote access to meetings