

RIVERSIDE SCHOOL



Exclusion Policy

APPROVED BY GOVERNORS

RESPONSIBLE PERSON - HEADTEACHER

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Statement of Intent

At Riverside School, we are fully committed to meeting the holistic needs of every one of our pupils, regardless of the challenges that may, at times, be presented. However, in exceptional circumstances, there may be occasions when it is felt that:

- the setting is unsuitable for the age, ability, aptitude or special educational needs of the child or young person;
- the attendance of the child or young person would be incompatible with the provision of efficient education for others; or
- the attendance of the child or young person would be incompatible with the efficient use of resources.

This is set out in Section 39(4) of the Children and Families Act 2014.

In instances such as these, the school will liaise closely with the local authority to consider a range of options to support the child or young person, and the annual review process (including the option of emergency or interim annual reviews) allows for discussions around suitability and sustainability of placement.

Under the Education and Inspections Act 2006, a headteacher of a school must determine measures to be taken with a view to:

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

Exclusions can be used to help achieve these aims when they are absolutely necessary.

Under the DfE's 2024 guidance, 'Suspension and permanent exclusion from maintained schools, academies and pupil referral units in England, including pupil movement', only the headteacher has the power to exclude a pupil. When making this decision, the headteacher can use the civil standard of proof e.g., 'on the balance of probabilities.

Headteachers have a duty to provide a calm, safe and supportive environment where both staff and pupils can work in safety and are respected. Exclusions may be part of the system used to achieve this 'where it is accepted that not all pupil behaviour can be amended or remedied by pastoral processes, or consequences within the school'.

Therefore, excluding a pupil may be required in instances where allowing the pupil to remain in school would be highly damaging to the education and welfare of themselves or others and in all cases, 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 local authority (LA) when responding to pupil exclusions, in order to ensure they are dealt with both fairly and lawfully, and in line with DfE statutory guidance. This policy also aims to secure a pupil's right to an education despite having been excluded, by ensuring that appropriate arrangements are in place.

1. Legal Framework

This policy has due regard to all 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 Pupil) (England) Regulations 2007 (as amended 2014)
- The European Convention on Human Rights (ECHR)
- The Equality Act 2010

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

- DfE (2024) 'Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement'
- DfE (2024) 'Behaviour in schools'
- DfE (2015) 'Special educational needs and disability code of practice: 0 to 25 years'

This policy will be implemented in conjunction with the following school policies and procedures:

- Anti-Bullying Policy
- Pupil Code of Conduct
- Regulation Support Policy

2. Roles and Responsibilities

The LA is responsible for:

- having due regard to the relevant statutory guidance when carrying out its duties in relation to the education of children looked after (CLA);
- arranging suitable full-time education for any pupil of compulsory school age excluded permanently, in coordination with the school;
- reviewing and reassessing pupils' needs in consultation with their parents/ carers where they have an Education, Health and Care Plan (EHCP) and are excluded permanently, with a view to identifying a new placement;

- 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 members, as appropriate, which represents the required categories;
- ensuring all panel members and the clerk have received relevant training within the two years prior to the date of the review; and
- if requested by parents/ carers, appointing a SEND expert to attend the panel and covering the associated costs of this appointment.

The governing board is responsible for:

- providing information to the Secretary of State and the 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;
- considering parent's/ carer's 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;
- considering whether it would be appropriate for a pupil to be permitted onto the school premises to sit the public examination or test;
- arranging the representation meeting at a time and date convenient to all parties, but in compliance with the statutory time limits;
- 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/ carers, the headteacher and the LA of its decision and the reasons for it, without delay;
- appointing a clerk to provide advice to the relevant panel and parties to the review on procedure, law and statutory guidance on suspensions and exclusions;
- where appropriate, informing parents/ carers or where to apply for an independent review panel;
- informing parents/ carers of relevant sources of information;
- ensuring a pupil's name is removed from the school admissions register, where appropriate;
- reconvening within 10 school days to reconsider reinstatement of a pupil, where directed to do so by the suspensions and exclusions review panel; and
- using data to evaluate the school's practices regarding intervention suspension and exclusion.

The clerk or LA representative 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; and
 - be represented.
- circulating copies of relevant papers at least five school days before the review to all parties;
- giving all parties details of those attending and their role, once the position is clear; and
- attending the review and ensuring that minutes are produced in accordance with instructions from the panel within the timeframe of the policy.

The headteacher is responsible for:

- implementing good levels of discipline to ensure all pupils can benefit from the opportunities provided by education and to minimise potential suspensions and exclusions;
- applying the civil standard of proof when establishing the facts in relation to a suspension or exclusion;
- complying with their statutory duties in relation to pupils with SEND when administering the suspension or exclusion process, as outlined in the Special Education Needs and Disabilities (SEND) Policy;
- Considering any contributing factors that are identified after an incident of poor behaviour has occurred e.g., if a pupil has suffered bereavement, experienced bullying or has mental health conditions;
- 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;
- considering what extra support may be needed to identify and address the needs of individual pupils, particularly those with SEND, those eligible for FSM, CLA and those from certain ethnic groups;
- engaging effectively with families in supporting the behaviours of pupils with additional needs;
- determining whether a pupil will be suspended or excluded on disciplinary grounds;
- withdrawing any suspensions or exclusions that have not been reviewed by the governing board, where appropriate;
- ensuring any decision to suspend or exclude is lawful, rational, reasonable, fair and proportionate;
- complying with the requirements of the Equality Act 2010 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;
- making the decision 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/ carers without delay where the decision is taken to suspend or exclude the pupil including the days on which the parents/ carers must ensure the pupil is not present in a public place at any time during school hours, as well as any other necessary information statutorily required;
- ensuring that all information provided to families is clear and easily understood;
- notifying the governor responsible and the LA of their decision to exclude a pupil where appropriate, as well as the pupil's home authority if required;
- notifying the governing board once per term of any exclusions in the Headteacher's Report to Governors; and
- organising suitable work for excluded pupils where alternative provision cannot be arranged.

3. Grounds for Exclusion

The school will only exclude a pupil where it is absolutely necessary, and where all other possible disciplinary sanctions, as detailed in the school's Regulation Support Policy have failed to be successful.

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

- physical assault against a pupil;
- physical assault against an adult;
- verbal abuse or threatening behaviour against a pupil;
- verbal abuse or threatening behaviour against an adult;
- use, or threat of use, of an offensive weapon or prohibited item;
- bullying; or
- discriminatory abuse e.g., racist, homophobic, biphobic, transphobic or ableist abuse.

Pupils can be excluded on a fixed-period basis i.e., up to 45 school days within a year, or permanently. Similarly, pupils can be permanently excluded following a fixed-period exclusion, where further evidence is presented. Pupils can be excluded for either a 'one-off' incident or an accumulation of incidents.

IN all cases, the headteacher will decide which exclusion period a pupil will be subject to, depending on what the circumstances warrant.

As a maintained school, the school has the power to direct a pupil off-site to review its options.

4. The Headteacher's Power to Exclude

Only the headteacher has the power to exclude a pupil from the school, and is able to decide whether this is on a fixed-term period or permanent basis. All exclusions will only be issued on disciplinary grounds.

The headteacher is able to exclude pupils from the premises where their behaviour is

disruptive during lunchtime. All lunchtime exclusions will be counted as half a school day.

The headteacher is able to consider a pupil's disruptive behaviour outside of the school premises as grounds for exclusion, in accordance with the school's Regulation Support Policy.

Any decision made to exclude a pupil will be fair, lawful and proportionate, with respect to legislation relating to directly to exclusions and the school's wider legal duties, including the EHCP.

When sending a pupil home following any exclusion, the headteacher will ensure that they exercise their duty of care at all times and will always inform the pupil's family.

The headteacher 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.

The headteacher may withdraw any exclusion that has not already been reviewed by the governing board. Where an exclusion is cancelled, the headteacher will notify the pupil's parents/ carers, the governing board, the LA and, where relevant, the virtual school head and the pupil's social worker. The headteacher will offer the pupil's parents/ carers the opportunity to meet with the headteacher to discuss the circumstances that led to the cancellation of the exclusion and the pupil will be allowed back into school.

The headteacher will report the number of suspensions and exclusions that have been cancelled, alongside the circumstances of and reason for the 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/ carers have agreed to this. The headteacher will not use the threat of suspension or exclusion as a means of instructing parents/ carers to remove their child from the premises.

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

At all times, the headteacher will take into account their legal duties under the Equality Act 2010 and the Special Education Needs and Disability Code of Practice: 0 to 25 Years, ensuring that they do not discriminate on any grounds e.g., race, sex, disability, gender etc., and will not increase the severity of a pupil's exclusion on these grounds.

In certain cases, reduced timetables may be used as an effective measure to support a pupil's safe attendance at school. In such cases, the rationale for such arrangements will be fully explained to families, the LA, and where appropriate, the pupil themselves. Reduced timetables will always be proposed when they are deemed by all parties to be in the pupil's interests, and will be regularly reviewed and reported to the LA.

5. Factors to Consider when Excluding a Pupil

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 exclusions or is approaching the legal limit of 45 excluded days per school year, and whether exclusion is serving as an effective sanction; and
- consider early intervention to address underlying causes of disruptive behaviour, including liaising with external agencies, to assess pupils who demonstrate consistently poor choices.

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 exclusion, including the following:

- Children Looked After (CLA);
- pupils eligible for free school meals;
- pupils with special educational needs and disabilities (SEND); and
- minority or historically persecuted ethnic and/ or cultural groups.

In light of the above, the headteacher will consider avoiding permanently excluding CLA pupils or pupils with an EHCP. For other vulnerable groups, additional support will be considered.

Where any member of staff has concerns about vulnerable pupil groups and their regulation, they will report this to the headteacher who will consider if extra support or alternative placement is required.

The headteacher will work in conjunction with families of a pupil with additional needs in order to establish the most effective support mechanisms.

6. 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 a managed move as preventative measures to exclusion.

Off-Site Direction

The governing board and the headteacher will decide, in communication with the pupil and their family, whether off-site direction is an appropriate solution to manage a pupil's regulation and avoid suspension or exclusion. Where all parties agree to this course of action, the school will work with the pupil and their parents to discuss and agree a plan

for the off-site direction, including a proposed maximum period of time that the pupil will be at the alternative provision and any alternative options that will be considered once the time limit has been reached e.g., managed moves.

The governing board will notify parents/ carers and the LA if the pupil has an EHCP, 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 families and will invite families in writing to each review meeting no later than six days before that date. Where families 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.

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

Managed Moves

Where it is thought to be in the pupil's best interest to transfer them to another school permanently, the headteacher and governing board will discuss this with the family of the pupil, and the LA if the pupil has an EHCP. Managed moves will only go ahead with the voluntary agreement of all parties involved, including the families and the admission authority of the new school. Managed moves should be seen as an opportunity for a fresh start and will have an agreed trial period. A managed move should never be seen as a pressure point with exclusion and vice versa.

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 participate in information sharing 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.

Families who have concerns that a managed move is being forced upon them, or who are unhappy with a managed move will be referred to the Complaints Policy.

7. Duty to Inform Families

Following the headteacher's decision to exclude a pupil, they will immediately inform, in person or by telephone, the family of the period of the exclusion and the reasons behind

this decision.

The headteacher will inform the family in writing (electronically if permission has been received from the parents/ carers for notices to be sent this way) of the following:

- the reason(s) for the exclusion;
- the duration of the fixed-term exclusion or, for a permanent exclusion, the fact that it is permanent;
- their right to raise any representations about the exclusion to the governing 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 governing board to consider the 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 provisions, or the pupil returns to school; and
- relevant sources of free, impartial information.

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

- the start and end date for any provision of full-time education;
- the address at which the provision will take place; and
- 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 exclusion, the headteacher is able to give less than 48 hours of notice, with parental/ carer consent.

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

8. Duty to Inform the Governing Board and LA

The headteacher will inform the governing board and LA of the following without delay:

- any permanent exclusions (including where a fixed-period exclusion is followed by a decision to permanently exclude the pupil);
- any exclusions which would result in the pupil being excluded for more than five school days in a term (or more than 10 lunchtimes); and
- any exclusions which would result in the pupil being absent from an examination

or national curriculum test.

The headteacher will inform the LA of all suspensions or exclusions, regardless of their length, without delay.

All notifications to the governing board and LA will include the reasons for exclusion and the duration of any fixed-period exclusion.

If the pupil who is excluded lives outside of the LA in which the school is located, the headteacher will also notify the pupil's 'home authority'.

9. 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 applicable) and the VSH if they are a child looked after. This notification will include the period of any suspension and the reasons for suspensions or permanent exclusion.

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

10. Arranging Education for Excluded Pupils

For any fixed-period exclusions of more than five school days, the governing board/ LA will arrange suitable full-time education for the pupil, which will begin no later than the sixth day of exclusion.

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 exclusion.

Where it is not possible to arrange alternative provision during the first five days of exclusion, the school will ensure that they take reasonable steps to set and mark work for the excluded pupil.

If a pupil with SEND has been excluded, the LA/ governing board will ensure that:

- any alternative provision is arranged in consultation with the pupil's family, who are able to request preferences; and
- when identifying alternative provision, any EHCP is reviewed/ pupil needs are reassessed in consultation with the family.

11. Considering Exclusions

The governing board will consider any representations made by a pupil's family in regard to exclusion. Families, and where requested a friend or representative, the headteacher and a member of the LA will be invited to attend any consideration of 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.

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

The governing board will consider the reinstatement of an excluded pupil, where:

- the exclusion is permanent;
- the exclusion is fixed-period, and would bring the pupil's total number of excluded school days to more than 15 in any given term, or
- the exclusion would result in the pupil missing public examination.

In the case of a fixed-period exclusion where the pupil's total number of excluded days is more than five but less than fifteen school days within a term, if requested by the parents/ carers, the governing board will consider exclusions within five days of receiving notification.

Where a suspension will take a pupil's total number of days out of school above five but less than fifteen days 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 but 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 fixed-period or permanent exclusion to more than five days in a term, the governing board will consider all representations made by parents/ carers; however, the board cannot direct the reinstatement of the pupil and it is not required to arrange a meeting with parents.

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

If it is not practicable for a sufficient number of governors to consider the decision before the examination, the chair of governors will consider the exclusion alone and decide whether or not to reinstate the pupil.

In light of the above, the governing board will also consider whether it would be appropriate to allow the excluded pupil to enter the premises to take the examination.

When considering the reinstatement of an excluded pupil, the governing board 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 school days in advance of the meeting;
- allow pupils and parents/ carers 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; and
- consider the interests and circumstances of the excluded pupil, including the grounds for exclusion.

12. Reaching a Decision

After considering exclusions, the governing board will either:

- decline to reinstate the pupil; or
- 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 fixed-period exclusion of the family 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 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 facts relating to an exclusion i.e., that 'on the balance of probabilities' it is more likely than not that the facts are true.

In order 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 exclusion of the pupil was fair, lawful and proportionate, taking into account the headteacher's legal duties and any evidence that was presented to the governing board 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; and
- make a note of their findings, where they have considered an exclusion but cannot/ do not reinstate the pupil.

13. Notification of Considered Exclusions

The governing board will notify the family of the excluded pupil, the headteacher and the

LA of their decision following the consideration of an exclusion, in writing and without delay.

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

- that this is permanent, and their right for this to be reviewed by an independent review panel;
- of the date by which an application for review must be made;
- the name and address to whom the review application should be submitted;
- that any application should set out the grounds on which the request is being made which, where appropriate, 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 family have the right to require the governing board to ensure a SEND expert attends the review;
- that they are required to make it clear if they wish for a SEND expert to attend the review. The LA will source the expert and there is no legal threshold to be met for them to be appointed as a SEND expert;
- of the role of the SEND expert attending the review, and that the family will not be charged for this; and
- that they may appoint someone at their own expense to make representations to the panel.

The governing board will also notify the family that, if they believe an 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 the date of the alleged discrimination.

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

14. Removing Permanently Excluded Pupils from the School Register

The headteacher will remove pupils from the school register if:

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

If an application for an independent panel review has been made within fifteen school days, the headteacher will wait until the review has been determined, or abandoned, and until the governing board has completed any reconsideration that the panel recommended or directed it to carry out, before removing the pupil from the school

register.

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

- all the particulars which were entered in the register;
- the address of any parent/ carer with whom the pupil normally resides; and
- the grounds upon which the pupil's name is to 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 in which the pupil's name was removed.

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

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

- Code B – education off-site;
- Code D – dual registration; or
- Code E – absent and not attending alternate provision

15. Independent Review Panel

The LA will review the governing board's decision not to reinstate a permanently excluded pupil if the family submit their application for this within the required timeframe.

Families are required to submit their applications within:

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

Any application made outside of this timeframe will not be reviewed.

Families are able to request an independent panel review even if they did not attend or make a case to 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 document 'Exclusion from maintained schools, academies and pupil referral units in England' 2017.

16. Appointing and SEND Expert

If requested by families 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.

The LA 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.

Families have a right to request the attendance of a SEND expert at a review, regardless of whether the school recognises that their child has SEND.

The SEND expert's role is set out in Section 17 of this policy. Individuals will not serve as a SEND expert if they have, or at any time have had, any connection with the LA or school, the pupil or their family, or the incident leading to the exclusion. This 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 expert will be a professional with first-hand experience of the assessment and support of SEND, as well as an understanding of their legal requirements on schools in relation to SEND. Examples of suitable individuals might include educational psychologists, specialist SEND teachers, special educational needs coordinators (SENCOs) and behaviour support teachers.

Recently retired individuals are not precluded from fulfilling this role; however, the LA 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 schools in relation to SEND.

Whilst individuals are not automatically taken to be partial simply because they are an employee of or contracted by the 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 interests at the earliest opportunity.

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

17. The Role of a SEND Expert

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

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.

The focus of the SEND expert's advice will be on whether the school's policies which relate to SEND, or the application of these policies in relation to the excluded pupil, were legal, reasonable and procedurally fair. If the SEND expert believe 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.

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

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

18. 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.

19. The Role of a Clerk

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

The clerk will:

- 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 witness to the incident(s) leading to the exclusion, taking into account the fact that some of the people may be pupils at the school (pupils under the age of 18 will not be allowed to appear in person without parental consent);
- inform the pupil's family, headteacher, governing board and the LA 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 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; and
 - 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.

Where a clerk is not appointed, the LA will undertake the functions outlined in this section of this policy.

20. The Duties of Independent Review Panel Members in the Conduct of a Review Panel

The role of the panel is to review the governing board'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 school.

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 a reasonable doubt'.

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

- uphold the decision;
- recommend that the governing board reconsider reinstatement; or
- quash the decision and direct that the governing board reconsider reinstatement.

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

21. 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, then a £4,000 adjustment will be made to the school's budget.

If, following reconsideration, the governing board offers to reinstate the pupil but the family decline, no adjustment will be made to the school's budget.

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

22. Criminal Investigations

The headteacher will not postpone taking a decision to 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 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 make a decision based on the evidence available.

23. Training Requirements

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

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 a review panel;
- the role of the clerk of a review panel
- the duties of headteachers, governing boards and the panel under the Equality Act 2010; and
- the effect of Section 6 of the Human Rights Act 1998 and the need to act in a manner compatible with human rights protected by that act.

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

24. Using Data

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

- consider the level of pupil moves and the characteristics of pupils who are moving on any permanent exclusions to ensure that this is only being used as a last resort;
- gather information on pupils who are taken off the roll and those who are on the roll but attending education off-site;

- consider the effectiveness and consistency in implementing the Regulation Support Policy;
- understand any variations in the rolling average of permanent exclusions to ensure they are only used when necessary;
- understand the characteristics of suspended and excluded pupils and evaluate equality considerations;
- gather information on where pupils are receiving repeat suspensions;
- evaluate interventions in place to support pupils at risk of suspension and exclusion, including where there are patterns which may indicate that certain policies and support measures are or are not working; and
- analysing whether the placements of pupils directed off-site into alternative provision are reviewed at sufficient intervals to assure that the education is achieving its objectives.

25. Monitoring and Review

This policy will be reviewed on an annual basis by the headteacher in conjunction with the governing board.

All members of staff are required to familiarise themselves with this policy as part of their introduction programme.

Appendix 1 – Reviewing the Headteacher’s Exclusion Decision

