Inspire Education Community Trust




# Suspension & Exclusion Policy

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## Statement of intent

At **Inspire Education Community Trust**, we understand that good behaviour and discipline is essential for promoting a high-quality education.

Amongst other disciplinary sanctions, the Trust recognises that suspension and exclusion of pupils may be necessary where there has been a serious breach, or consistent breaches, of the Trust's Behaviour Policy. Suspending 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 Trust has created this policy to clearly define the legal responsibilities of the executive headteacher, Trust board and LA when responding to pupil suspensions and exclusions, to ensure that 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 suspended or excluded, by ensuring that appropriate arrangements are in place.

A **"suspension"** is defined as the temporary removal of a pupil from the school for behaviour management purposes. A pupil may be suspended for one or more fixed periods, up to a maximum of 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 Trust'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.

# 1. 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 (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'
- DfE (2018) 'Mental health and behaviour in schools'

This policy operates in conjunction with the following Trust policies:

- Behaviour Policy
- Anti-bullying Policy
- Pupil Code of Conduct
- Special Educational Needs and Disabilities (SEND) Policy
- Social, Emotional and Mental Health (SEMH) Policy
- Child Protection and Safeguarding 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 LAC.
- 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 where they have an EHC plan 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 represent the required categories.
- Ensuring all panel members and the clerk have received training within the two years prior to the date of the review.
- If requested by parents, appointing a SEND expert to attend the panel and covering the associated costs of this appointment.

The Trust is responsible for:

- Arranging for an independent review panel hearing to review the decision of the Trust board not to reinstate a permanently excluded pupil where required.
- Arranging for the independent review panel hearing to be held via remote access where requested by parents or excluded pupils aged 18 and above.
- 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.
- Considering 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.
- 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.
- Arranging for the representation meeting to take place 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 executive 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 of where to apply for an independent review panel.
- Informing parents 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.
- Using data to evaluate the school's practices regarding intervention, suspension and exclusion.

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.
- 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.
- Attending the review and ensuring that minutes are produced in accordance with instructions from the panel within the timeframe of the policy.

The executive 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 Educational 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 a mental health issue.
- Considering the use of a multi-agency assessment for a pupil who demonstrates persistent disruptive behaviour.
- 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, 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 Trust board has met to consider whether the pupil should be reinstated. Withdrawing any suspensions or exclusions that have not been reviewed by the Trust 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.
- Where practical, ensuring that the pupil is given the opportunity to present their case before a decision is reached.
- 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.
- Ensuring that the school does not engage in unlawful 'off-rolling'.
- 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 at any time 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 trustee responsible and LA of their decision to exclude a pupil where appropriate, as well as the pupil's home authority if required.
- Notifying the Trust board once per term of any exclusions in the executive headteacher's report to trustees.

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

## 3. Grounds for suspension or exclusion

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

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 threatening behaviour against an adult
- Use, or threat of use, of an offensive weapon or prohibited item
- Bullying
- Discriminatory abuse, e.g. racist, homophobic, biphobic, transphobic or ableist abuse
- Unsafe behaviour which puts themselves and others at risk of harm

The behaviour of a pupil outside of the school can also be considered grounds for a suspension or exclusion.

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 excluded following a suspension, where further evidence is presented. In all cases, the executive headteacher will decide whether a pupil will be subject to a suspension or an exclusion, depending on what the circumstances warrant.

A suspension or exclusion decision will not be made:

- Because a pupil has SEND that the school feels unable to support.
- Due to a pupil's poor academic performance.
- Because the pupil has not attended a reintegration meeting.
- On non-disciplinary grounds, such as the action of a pupil's parents.

Exclusion is a last resort and should only be used in the case of:

- A serious breach or persistent breaches of the school's Behaviour policy.
- Where allowing the pupil to remain in the school would seriously harm the education or welfare of the pupil or others in the school.

## 4. The executive headteacher's power to suspend and exclude

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

The executive headteacher is able to suspend pupils where their behaviour is disruptive during lunchtime. All lunchtime suspensions will be counted as half of a school day. The executive headteacher is also able to consider a pupil's disruptive behaviour outside of the school premises as grounds for suspension or exclusion, in accordance with the school's Behaviour Policy.

When sending a pupil home following any suspension or exclusion, the executive headteacher will ensure that they exercise their duty of care at all times and will always inform the parents.

Any decision made to suspend or exclude a pupil will be lawful, proportionate and fair, with respect to legislation relating directly to suspensions and exclusions and the school's wider legal duties, including the ECHR. At all times, the executive 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 and will not increase the severity of a pupil's suspension or exclusion on these grounds.

The executive 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.

The executive headteacher may cancel any suspension or exclusion that has already begun, or one that has not yet begun; however, this power will only be used if the suspension or exclusion has not already been reviewed by the Trust board.

**[Please note: The executive headteacher's duties in relation to notification and the duty to allow a pupil back into school have been made statutory]** Where a suspension or exclusion is cancelled, the executive headteacher will notify the pupil's parents, the Trust 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 executive headteacher will offer the pupil's parents the opportunity to meet with the executive 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 Trust board's duty to consider reinstatement ceases, and there is no requirement to hold a meeting to consider reinstatement.

Any days spent out of school as a result of a suspension or exclusion prior to it being cancelled will count towards the maximum 45 school days that 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 executive headteacher will report the number of suspensions and exclusions that have been cancelled, alongside the circumstances around and reasons for cancellation, to the Trust board once per term, to allow the Trust board to have appropriate oversight.

The executive 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 have agreed to this. The executive headteacher will not use the threat of suspension or exclusion as a means of instructing parents to remove their child from the premises.

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

## 5. Factors to consider when suspending or excluding a pupil

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

- Allow the pupil the opportunity to present their case once evidence has been collected.
- 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 school year, and whether suspension is serving as an effective sanction.

- Take into consideration whether all alternative solutions have been explored pursuant to the school's Behaviour policy.
- Consider early intervention to address underlying causes of disruptive behaviour, including liaising with external agencies, to assess pupils who demonstrate consistently poor behaviour.

The executive 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 executive headteacher will consider avoiding excluding LAC, those with SEMH issues or pupils with an EHC plan. Where any member of staff has concerns about vulnerable pupil groups and their behaviour, they will report this to the executive headteacher, who will instigate a multi-agency assessment to determine whether the behavioural issues might be a result of educational, mental health or other needs and vulnerabilities. The full assessment procedures are outlined in the school's Social, Emotional and Mental Health (SEMH) Policy.

Where a pupil has an EHC Plan the executive headteacher will consider whether to request an emergency review for a pupil with an EHCP at risk of suspension.

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 the physical or emotional wellbeing of other pupils or staff, despite exhausting the graduated response process, then suspension or exclusion may be considered. In accordance with the Equality Act 2010, under no circumstances will a pupil with identified SEND or SEMH issues be suspended or excluded before the graduated response process 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 and showing that the school has a close relationship with the pupil's next destination.

The executive headteacher will work in conjunction with the parents of any pupil with additional needs to establish the most effective support mechanisms.

## 6. Preventative measures

Before taking a final decision to exclude, the executive 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**

The board of trustees may use their general powers to arrange for any registered pupil to attend at any place outside the school premises for the purpose of receiving educational provision intended to improve their behaviour.

The Trust board and the executive headteacher will decide, in communication with the pupil and their parents, whether off-site direction is an appropriate solution to manage a pupil's behaviour 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 Trust 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 Trust board; the Trust 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 Trust board hold a review meeting, the Trust board will arrange review meetings in response, as soon as is reasonably practicable, unless there has been a review meeting in the previous 10 weeks.

The Trust board will decide at each review meeting whether the arrangement 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 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 executive headteacher and Trust board will discuss this with the parents of the pupil, and the LA if the pupil has an EHC plan – managed movies 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 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.

Parents who have concerns 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.

## 7. Duty to inform parents

Following the executive 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 executive headteacher will inform the parents in writing (or electronically if written permission has been received from the parents for notices to be sent this way) 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 Trust 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 Trust 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 executive headteacher will inform the parents by the end of the afternoon session 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 executive 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 executive 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 executive headteacher is able to give less than 48 hours of notice, with parental consent.

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

## 8. Duty to inform the Trust board and LA

The executive headteacher will inform the Trust board, 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 suspended for more than 5 school days in a term (or more than 10 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 executive headteacher will notify the Trust board once per term.

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

All notifications to the Trust 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 executive headteacher will 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 executive 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 the period of any suspension and the reasons for suspension or permanent exclusion.

Social workers and/or the VSH will also be informed when a meeting of the Trust board 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 Trust 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.

## 10. Arranging education for suspended and excluded pupils

For any suspensions of more than five school days, the Trust board 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 Trust board will not arrange full-time education for any pupil who is currently in their final year of compulsory education, and who does not have any further public examinations to sit.

The Trust board is aware that it is beneficial to suspended and excluded pupils to begin their alternative education arrangements before the sixth day of suspension or exclusion; therefore, the Trust board will always attempt to arrange alternative provision before the sixth day. Where it is not possible to arrange alternative provision during the first five days, the school will ensure that they take reasonable steps to set and mark work for the pupil.

If a pupil with SEND has been suspended or excluded, the Trust board 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 or the pupil's needs are reassessed, in consultation with the pupil's parents.

## 11. A re-integration meeting will be held with the pupil, parents and a member of senior staff as appropriate following a period of suspension. If the parents are either unable or unwilling to attend the re-integration meeting, the pupil will still be permitted to return to the classroom. Considering suspensions and exclusions

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

Parents and, where requested, a friend or representative, the executive 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, will also be able to request that the meeting is 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 will be enabled to make a representation on their own behalf if they desire to do so.

Within 15 school days of receiving notice of the suspension or exclusion, the Trust 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 5 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 Trust board will consider suspensions within 50 school days of receiving the notice of suspension. In the absence of any representations from parents, the Trust board will consider the reinstatement on their 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 Trust board meeting, the Trust 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 suspension or permanent exclusion to more than five days in a term, the Trust 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.

Where suspension or exclusion would result in a pupil missing a public examination, the Trust board will consider the suspension or 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 trustees to consider the decision before the examination, a smaller sub-committee will consider the suspension or exclusion and decide whether or not to reinstate the pupil.

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

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

- Only discuss the suspension or 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 to be accompanied by 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.

## 12. Reaching a decision

After considering suspensions and exclusions, the Trust 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 Trust board will still consider whether the pupil should be officially reinstated, and whether the executive headteacher's decision to suspend or exclude the pupil was fair, lawful and proportionate, based on the evidence presented.

The Trust 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 Trust 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, taking into account the executive headteacher's legal duties and any evidence that was presented to the Trust board in relation to 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.
- Make a note of their findings, where they have considered a suspension or exclusion but cannot reinstate the pupil.

## 13. Notification of considered suspensions and exclusions

The Trust board will notify the parents of the suspended or excluded pupil, the executive 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 Trust 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 to.
- That a request to hold the meeting via remote access can be made and how to do this.
- 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 Trust 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.
- 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.

The Trust 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 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.

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

## 14. Removing excluded pupils from the school register

The executive headteacher will remove pupils from the school register if:

- 15 school days have passed since the parents were notified of the Trust board'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 an exclusion.

If an application for an independent panel review has been made within 15 school days, the executive headteacher will wait until the review has been determined, or abandoned, and until the Trust 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 executive 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.

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'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.

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

## 15. Independent review panel

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

The Trust 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/trustee who has served for at least 12 consecutive months in the last 5 years
- A headteacher or individual who has been a headteacher within the last 5 years

Parents are required to submit their applications within:

- 15 school days of the Trust board's notification of their decision.
- 15 school days of the final determination of a discriminatory claim made under the Equality Act 2010.

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

A review will take place within 15 school days of the parents' application for a review being made.

Parents can request that independent review panels take place via remote access.

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

## 16. Appointing a SEND expert

If requested by parents in their application for an independent review panel, the Trust will appoint a SEND expert to attend the panel and covers 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.

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.

An individual will not serve as a SEND expert if they have, or at any time have had, any connection with the Trust, 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 Trust.

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 schools in relation 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 interview, the Trust will 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 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.

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 LA will consider maintaining a list of individuals capable of performing the role of SEND expert in advance of a request.

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.

## 17. 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 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 believes that this was not the case, they will, where possible, 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 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 or because another school might have taken a different approach.

## 18. Appointing a clerk

The Trust 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 Trust will ensure that the clerk did not serve as clerk to the Trust board when the decision was made not to reinstate the pupil.

## 19. 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 feedback their views, irrespective of their attendance.
- Identify, in advance of the meeting, 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 feedback their views, irrespective of their attendance.

- Ensure that the panel is able to hear from any witnesses to the incident leading to the exclusion, taking into account the fact that some of these people may be pupils at the school. Pupils under 18 will not be allowed to appear in person without parental consent.
- Inform the parents, executive headteacher and Trust board 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.
    - 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 Trust will undertake the functions outlined above.

## 20. The duties of the independent review panel

The role of the panel is to review the Trust 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 have regard to 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 Trust board reconsiders reinstatement
- Quash the decision and direct that the Trust 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, Trust board, executive headteacher and LA.

## 21. Conducting Trust 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 Trust board meetings or independent review panels are 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 executive headteacher's or Trust board's written notification, the Trust board or LA will hold the meeting via the use of remote access.

Remote meetings and panels will be held in accordance with timelines for face-to-face meetings.

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.

If 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, it may be held via remote access.

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

If there are technological or internet issues during a remote meeting 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 will be arranged without delay.

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

- Comply with relevant equalities legislation.
- Enable access to support which 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.

- Ensure all the participants will be able to put across their point of view and/or fulfil their function.
- Ensure the remote meeting or panel can be held fairly and transparently.

Where a suspension or exclusion began before 1 September 2023 and a Trust board meeting has not yet been held, the executive headteacher will notify the parent, either on 1 September or as soon as possible afterwards, that they can ask the Trust 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 executive 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 Trust 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.

## 22. Reconsidering reinstatement following a review

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

The school is aware that if, following an **instruction** to reconsider, the Trust board does not offer to reinstate the pupil, then the school will be required to make a payment of £4,000 directly to the LA area in which the school is located.

Where the independent review panel **recommends** that the Trust board should reconsider their decision not to reinstate a pupil, they will do so within 10 school days of being given notice of the review panel's decision. The school is aware that if, following a recommendation to reconsider, the Trust board does not offer to reinstate the pupil, it will not be subject to a financial adjustment. If, following reconsideration, the Trust board offers to reinstate the pupil but the parents decline, no adjustment will be made to the school's budget.

Following reconsideration, the Trust board will notify the parents, executive headteacher and LA of their reconsidered decision and the reasons for this.

## 23. Criminal investigations

The executive 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.

Particular consideration will be given by the executive headteacher 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 Trust board is required to consider the executive headteacher's decision in these circumstances, they will not postpone the meeting and will make a decision based on the evidence available.

## 24. Training requirements

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

- The requirements of the legislation, regulations and statutory guidance Trust suspensions and 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 to a review panel.
- The duties of executive headteachers, Trust 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 on developments in case law which are relevant to suspension and exclusion.

## 25. Using data

The executive headteacher will ensure that all data regarding suspensions and exclusions is collected and provided to the Trust board on a **termly** basis. The Trust 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.
- Determine whether there are any patterns of suspensions and exclusions across the trust.
- 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 which 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 assure that the education is achieving its objectives.

## 26. Monitoring and review

This policy will be reviewed **annually** by the executive headteacher.

All members of staff will be required to familiarise themselves with this policy as part of their induction programme.

## Flowchart for reviewing the executive headteacher's suspension or exclusion decision

