# Policy for

# Suspension and Exclusion

| Prepared by: | Adopted by Board of Directors |
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| HS | **Autumn 2022** |

There have been a number of changes to reflect the change in terminology ie FIXED TERM EXCLUSIONS are now known as SUPSENSIONS

# AET Suspension and Exclusion Policy


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## 1. Statement of Intent

The Aspire Educational Trust understand that good behaviour and discipline is essential for high-quality education. All children in our academies are entitled to a safe and orderly learning environment, and all of our staff are entitled to work in an environment free from violence and disruption. Each academy's individual behaviour policy is designed to ensure such a safe environment and to promote good behaviour.

Amongst other disciplinary sanctions, the school recognises that suspension and exclusion of pupils may be necessary where there has been a serious breach, or consistent breaches, of the school'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. Our academies will only suspend or exclude pupils as a last resort. Exclusion or suspension will only be considered when the Principal's risk assessment concludes that the welfare and safety of other members of the academy community cannot be assured.

This policy will be implemented in conjunction with the following school policies and procedures: Behavioural Policy; Anti-Bullying Policy; Special Educational Needs and Disability (SEND) Policy; Child Protection and Safeguarding Policy.

The school has created this policy to clearly define the legal responsibilities of the principal, Trustees 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 school's Behaviour Policy, and where allowing the pupil to remain in school would seriously harm the education or welfare of the pupils or staff in the school.

## 2. 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) Regulations 2012
- 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 (2022) 'Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement'
- DfE (2022) '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 school policies:

- Behaviour Policy
- Anti-bullying Policy
- Special Educational Needs and Disabilities (SEND) Policy
- Child Protection and Safeguarding Policy

## 3. Roles and responsibilities

### 3.1. 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.
- Ensuring suitable full-time education for any pupil of compulsory school age excluded on a fixed-term basis is arranged.

### 3.2. The Trustees are responsible for:

- Ensuring an appropriate, independent suspensions and exclusions review panel is convened to review parents' representations about the decision to suspend or permanently exclude a pupil within 15 school days of receiving notice. The meeting of this panel would include and be overseen by a member of the Trust SLT, who would report to Trustees.
  This panel would usually involve a representative from the Local Academy Committee, a Trustee and a member of the Trust Leadership Team, none of whom have been involved in the original decision to exclude the pupil. The process considers the interests and circumstances of the excluded pupil, including the circumstances in which they were excluded, and has due regard to the interests of others at the school.
  The panel are responsible for 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.
  The panel meeting would take place without delay at a time, date and venue convenient for all parties. This may be virtual rather than face to face.
- If requested by parents, ensuring that a SEND expert has been appointed to attend the panel and covering the associated costs of this appointment.
- Ensuring information is provided to the Secretary of State and LA about any suspensions and exclusions within the last 12 months.
- Adherence to its responsibilities to consider the reinstatement of pupils.
- Ensuring that all decisions are notified to the pupil's parents, the principal and LA and the reasons for it, without delay and that parents are made aware of relevant sources of information including process for appeals.
- Convening an appeals panel consisting of three Trustees within 10 school days to reconsider reinstatement of a pupil where directed to do so by the exclusions review panel.
- A pupil's name is removed from the school admissions register, where appropriate
- Using data to evaluate the school's practices regarding intervention, suspension and exclusion.

### 3.3. 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.

### 3.4. The principal 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.
- Making the decision to exclude a pupil and whether this is on a suspension or permanent basis.
- At all times, the principal will take into account their legal duties under the Equality Act 2010 and the 'Special educational needs and disability code of practice: 0 to 25 years', ensuring that they do not discriminate on any grounds, e.g. race, sex, disability, and will not increase the severity of a pupil's exclusion on these grounds.
- Applying the civil standard of proof when establishing the facts in relation to an exclusion i.e. that 'on the balance of probabilities' it is more likely than not that the facts are true. Any decision made to exclude a pupil will be lawful, proportionate and fair, with respect to legislation relating directly to exclusions and the school's wider legal duties, including the ECHR.
- Considering any contributing factors that are identified after an incident of poor behaviour has occurred, e.g. if a pupil has suffered bereavement, 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 exclusions as a sanction, e.g. if a pupil has received multiple exclusions /is approaching the legal limit for exclusions in an academic year.
- Considering what extra support may be needed to identify and address the needs of individual pupils, particularly those with SEND, 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 excluded on disciplinary grounds.
- Withdrawing any exclusions that have not been reviewed by the Trustees, where appropriate.
- Complying with the requirements of the Equality Act 2010 when deciding whether to exclude a pupil.
- Ensuring they have considered their legal duty of care when sending a pupil home following an exclusion.
- Formally recording the exclusion
- Ensuring that all information provided to parents is clear and easily understood.
- Notifying the Trust leadership team, chair of the Local Academy Committee and LA of their decision to exclude a pupil where appropriate, as well as the pupil's home authority if required.
- Notifying the Local Academy Committee and Trust Leadership Team once per term of any exclusions not already notified.
- Organising suitable work for excluded pupils where alternative provision cannot be arranged.

The principal will not issue any 'informal' or 'unofficial' exclusions, such as sending a pupil home to 'cool-off', regardless of whether the parents have agreed to this.

The principal will not use the threat of suspension exclusion as a means of instructing parents to remove their child from the premises.

## 4. 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 Behavioural 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

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 Principal will decide whether a pupil will be subject to a suspension or an exclusion, depending on what the circumstances warrant.

## 5. The Principal's power to suspend and exclude

Only the Principal 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 Principal 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 Principal 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.

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 Principal will take into account their legal duties under the Equality Act 2010 and the 'Special educational needs and disability code of practice: 0 to 25 years', ensuring that they do not discriminate on any grounds, e.g. race, sex, or disability, and will not increase the severity of a pupil's suspension or exclusion on these grounds.

The Principal 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 Principal may cancel any suspension or exclusion that has already begun; however, this power will only be used if the suspension or exclusion has not already been reviewed by the LAC. Where a suspension or exclusion is cancelled, the Principal will notify the pupil's parents, the LAC, hub lead, the LA, and, where relevant, the virtual school head (VSH) and the pupil's social worker. The Principal will offer the pupil's parents the opportunity to meet with the Principal to discuss the circumstances that led to the cancellation of the exclusion, and the pupil will be allowed back into school.

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

The Principal 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 Principal 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.

## 6. Preventative measures

Before taking a final decision to exclude, the Principal 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 LAC 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 LAC and the Principal 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 LAC 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 LAC; the LAC 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 LAC hold a review meeting, the LAC 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 LAC 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 school permanently, the Principal 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. Factors to consider when excluding a pupil with SEND or SEMH

When considering the suspension or exclusion of a pupil, the Principal 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.
- Consider early intervention to address underlying causes of disruptive behaviour, including liaising with external agencies, to assess pupils who demonstrate consistently poor behaviour.

The Principal 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 Principal 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 Principal, 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.

Where SEND or SEMH issues are identified, an individual behaviour plan will be created using the graduated response. If the pupil continues to endanger the physical or emotional wellbeing of other pupils or staff, despite exhausting the graduated response process, then exclusion may be considered.

In accordance with the Equality Act 2010, under no circumstances will a pupil with identified SEND or SEMH issues be excluded before the graduated response process has been completed.

Where a pupil with SEND or SEMH issues is permanently 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 show that the school has a close relationship with the pupil's next destination.

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

## 8. Duty to inform parents

Following the principal's decision to exclude a pupil, they will immediately inform the parents, 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 principal will inform the parents in writing of the following:
- The reason(s) for the suspension or exclusion
- The length of the suspension or, for a permanent exclusion, the fact that it is permanent
- Their right to raise any representations about the exclusion, 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 Trust to consider the exclusion, and the fact that they can 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 principal will inform the parents by the end of the afternoon session that:

For the first five days of the exclusion (or until the start date of any alternative provision or the end of the exclusion 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 principal 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 principal 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 exclusion, the principal can give less than 48 hours of notice, with parental consent.

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

## 9. Duty to inform the Local Academy Committee, Trust and LA

The principal will inform the Chair of their school's Local Academy Committee, Trust Leadership Team and LA, without delay, of the following:

- Any permanent exclusions (including where a suspension is followed by a decision to permanently exclude the pupil)
- Any suspension which would result in the pupil being suspended for more than five school days in a term (or more than 10 lunchtimes)
- Any suspension which would result in the pupil being absent from an examination or national curriculum test
- All notifications to the Local Academy Committee Chair, Trust and LA will include the reasons for exclusion and the duration of any suspension.

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

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

When a pupil has been suspended or excluded, the Principal 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 LAC is taking place, and will be invited to attend the meeting should they wish to do so.

## 11. Arranging education for excluded pupils

For any suspensions of more than five school days, the school 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 suspensions, these will be regarded as cumulative, and full-time education will still have to be provided from the sixth day of exclusion.

For permanent exclusions, full-time education will also be provided for the pupil 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 Trust will work with the school to ensure that:

Any alternative provision is arranged in consultation with the pupil's parents, who can request preferences.

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

## 12. Considering suspensions and exclusions

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

Parents and, where requested, a friend or representative, the principal and a member of the Trust SLT 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 Exclusion Review Panel will consider the reinstatement of an excluded pupil, where:

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

In the case of a suspension where the pupil's total number of excluded days is more than five but less than 15 school days within a term, if requested by the parents, the Local Academy Committee will consider exclusions within 30 school days of receiving notification.

In the case of a suspension, where the pupil's total number of excluded school days does not amount to more than five, in the absence of any such representations, the suspension and exclusion review panel is not required to meet

When considering the reinstatement of an excluded pupil, the exclusion review panel 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 to be accompanied by a person of their choice at the meeting.
- Consider what reasonable adjustments need to be made to support the attendance and contribution of parties at the meeting.
- Identify the steps needed to enable and encourage the excluded pupil to attend the meeting and speak on their behalf, or how they may contribute personal views by other means if attendance is not possible.
- Consider the interests and circumstances of the excluded pupil, including the grounds for exclusion.

## 13. Reaching a decision

After considering exclusions, the Suspension and Exclusion Review Panel 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 Suspension and Exclusion Review Panel will still consider whether the pupil should be officially reinstated, and whether the principal's decision to suspend the pupil was fair, lawful and proportionate, based on the evidence presented.

The Exclusion Review Panel will apply the civil standard of proof when responding to the facts relating to an exclusion, it is more likely than not that the facts are true.

To reach a decision, Suspensions and Exclusion Review Panel 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 lawful, proportionate and fair, taking into account the principal's legal duties and any evidence that was presented to the Exclusion Review Panel in relation to the decision to exclude.
- Record the outcome of the decision on the pupil's educational records, along with copies, which will be kept for at least six months.
- Make a note of their findings, where they have considered an exclusion but cannot reinstate the pupil.

## 14. Notification of considered exclusions

Exclusion Review Panel will notify the parents of the excluded pupil, the principal and the Trust of their decision following the consideration of an exclusion, in writing and without delay.

In the case of a permanent exclusion, where the Exclusion Review Panel decides not to reinstate the pupil, they will notify the parents:

- That it is permanent, and their right for it to be reviewed by an independent review panel.
- Of the date by which an application for review must be made.
- Of the name and address of whom the review application should be submitted to.
- That any application should set out the grounds on which it is being made and that, where appropriate, this should include reference to how a pupil's SEND is considered relevant to the exclusion.
- That, regardless of whether a pupil has been identified as having SEND, the parents have a right to require the Exclusion Review Panel 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.

Exclusion Review Panel will also notify parents 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 when the discrimination allegedly took place.

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

## 15. Removing permanently excluded pupils from the school register

The principal will remove pupils from the school register if:

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

If an application for an independent panel review has been made within 15 school days, the principal will wait until the review has been determined, or abandoned, and until the Exclusion Review Panel 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 principal 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

## 16. Independent review panel

The Trust will review the exclusion review panel decision not to reinstate a permanently 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 who has served for at least 12 consecutive months in the last five years.
- A principal or individual who has been a principal within the last five years.

Parents are required to submit their applications within:

- 15 school days of the notification of the decision.
- 15 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.

Parents are able to request an independent panel review even if they did not make a case to, or attend, the exclusion review panel's initial consideration of the exclusion.

The Trust will adhere to all statutory guidelines when conducting an independent panel review, as outlined in the DfE's statutory guidance document 'Exclusion from maintained schools, academies and pupil referral units in England' 2017.

## 17. 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 cover the associated costs of this appointment.

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.

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 SEND expert's role is set out in section 13 of this policy.

Individuals 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 might include educational psychologists; specialist SEND teachers; SENCOs; and behaviour support teachers.

Recently retired individuals are not precluded from fulfilling this role; however, the Trust will, during interview, assess the knowledge of such individuals in order to ensure that they have a good understanding of current practice and the legal requirements on 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.

## 18. The role of a 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.

## 19. The duties of independent review panel members in the conduct of a review panel

The role of the panel is to review the exclusion review panel'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, 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 exclusion review panel reconsiders reinstatement.
- Quash the decision and direct that the exclusion review panel considers 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, the exclusion review panel and the principal.

## 20. Reconsidering reinstatement following a review

Where the independent review panel instructs the Exclusion Review Panel 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, exclusion review panel 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.

If, following reconsideration, the exclusions review panel offers to reinstate the pupil but the parents decline, no adjustment will be made to the school's budget.

Following reconsideration, the Exclusion Review Panel will notify the parents, the principal and the LA of their reconsidered decision and the reasons for this.

## 21. Criminal investigations

The principal 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 principal will give 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.

## 22. Using data

The Principal will ensure that all data regarding suspensions and exclusions is collected and provided to the LAC and Trust team on a termly basis. The LAC 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.

## 23. Monitoring and review

This policy will be reviewed annually by the Trust leadership team in conjunction with the board of Trustees.

# Flowchart for reviewing the Principal's suspension or exclusion decision

