

LDST Suspension and Permanent Exclusion Policy



Our Trust's Prayer

Heavenly Father

Let peace, friendship and love grow in our schools.

Send the Holy Spirit to give excellence to our learning,

love to our actions and joy to our worship.

Guide us to help others, so that we may all

Learn, Love and Achieve,

Together with Jesus.

Amen

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1. Aims

Good behaviour in schools is essential to ensure that all pupils benefit from the opportunities provided by education. The government recognises that school exclusions, managed moves and off-site direction are essential behaviour management tools for headteachers and can be used to establish high standards of behaviour in schools and maintain the safety of school communities. The government therefore supports headteachers in using suspension and permanent exclusion as a sanction when warranted as part of creating calm, safe, and supportive environments where both pupils and staff can work in safety and are respected. To achieve this, suspension and permanent exclusion are sometimes a necessary part of a functioning system, where it is accepted that not all pupil behaviour can be amended or remedied by pastoral processes, or consequences within the school.

The Liverpool Diocesan Schools Trust (LDST) is committed to its vision of educating all children so that they may *live life in all its fullness* John 10:10. In line with our core values of collaboration, valuing the local, valuing difference and inclusion, we would expect that all schools explore all other options before pursuing exclusion, whilst understanding that in some instances a Headteacher may need to exclude to ensure the safety and well-being of all pupils and staff. This policy relates to the policy and practice regarding the use of Suspensions and Exclusions. . The Trust seeks to reduce the number of incidents leading to exclusions by promoting a positive atmosphere of mutual respect and discipline within each of our academies.

This policy has been written with reference to the DFE guidance and should be read in conjunction with that guidance;

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1162401/Suspension_and_permanent_exclusion_guidance_May_2023.pdf

Links with other policies:

This exclusions policy is linked to our;

- Behaviour policy
- SEN policy and information report
- Equalities Policy
- Child Protection Policy

2.Rationale

The safety and well-being of all members of LDST is paramount. We believe staff and children are entitled to a place of safety and protection; a safe and secure environment in which to learn and succeed. A child will be excluded from our schools only as a last resort as a result of violence, unacceptable breaches of the behaviour policy or of the criminal law.

Suspension and exclusion are only used by the Trust and its schools in cases deemed as serious breaches of a school's Behaviour Policy. A pupil may be at risk of suspension or exclusion for example, from their school for:

- Verbal abuse, threatening behaviour or physical assault against a pupil or adult;

- Use, or threat of use, of an offensive weapon or prohibited item that has been prohibited by a school's behaviour policy;
- Bullying;
- Racist abuse;
- Abuse against sexual orientation or gender reassignment
- Abuse relating to disability.

Under the Education and Inspections Act 2006, headteachers of maintained schools and pupil referral units must determine measures to be taken with a view to:

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

Permanent exclusions can be used to help achieve these aims when they are absolutely necessary, as a last resort. Schools within LDST aim to:

- Ensure that the suspensions and exclusions process is applied fairly and consistently.
- Help governors, staff, parents/carers/legal guardians and pupils understand the exclusions process.
- Ensure that pupils in school are safe and happy.
- Prevent pupils from becoming NEET (not in education, employment or training).
- Ensure all suspensions and permanent exclusions are carried out lawfully.

3. Legislation and statutory guidance

This policy is based on statutory guidance from the Department for Education: [Exclusion from maintained schools, academies and pupil referral units \(PRUs\) in England](#).

It is based on the following legislation, which outlines schools' powers to exclude pupils:

- Section 51a of the Education Act 2002, as amended by the Education Act 2011.
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012.

In addition, the policy is based on:

- Part 7, chapter 2 of the [Education and Inspections Act 2006](#), which sets out parental responsibility for excluded pupils.
- Section 579 of the [Education Act 1996](#), which defines 'school day'.
- The [Education \(Provision of Full-Time Education for Excluded Pupils\) \(England\) Regulations 2007](#), as amended by [The Education \(Provision of Full-Time Education for Excluded Pupils\) \(England\) \(Amendment\) Regulations 2014](#)
- [The Equality Act 2010](#).
- [Children and Families Act 2014](#).

4. Definitions

Suspension – when a pupil is removed from the school for a fixed period. This was previously referred to as a 'fixed-term exclusion'. A 'fixed period' means that a suspension on disciplinary grounds can't be open ended but must have a defined end date that is fixed at the time when the suspension is first imposed. A suspension does not have to be for a continuous period.

This is an essential behaviour management tool that should be set out within a school's behaviour policy. 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 may be used to provide a clear signal of what is unacceptable behaviour as part of the school's behaviour policy and show a pupil that their current behaviour is putting them at risk of permanent exclusion.

Where suspensions are becoming a regular occurrence for a pupil, Headteachers and schools should consider whether suspension alone is an effective sanction for the pupil and whether additional strategies need to be put in place to address behaviour.

The law does not allow for extending a suspension or 'converting' a suspension into a permanent exclusion. In exceptional cases, usually where further evidence has come to light, a further suspension may be issued to begin immediately after the first

Permanent exclusion – when a pupil is removed from the school permanently and taken off the school roll. This is sometimes referred to as an 'exclusion'. The decision to exclude a pupil permanently should only be taken:

- 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 pupil or others such as staff or pupils in the school.

Off-site direction – when a Local Governing Body requires a pupil to attend another education setting temporarily, to improve their behaviour.

Parent – any person who has parental responsibility and any person who has care of the child.

Managed move – when a pupil is transferred to another school permanently. All parties, including parents/carers/legal guardians and the admission authority for the new school, should consent before a managed move occurs.

Off-rolling

Ofsted defines off-rolling as:

"The practice of removing a pupil from the school roll without a formal, permanent exclusion or by encouraging a parent to remove their child from the school roll, when the removal is primarily in the interests of the school rather than in the best interests of the pupil."

Schools within LDST are aware that off-rolling is unlawful and will not suspend or exclude pupils unlawfully by directing them off site, or not allowing pupils to attend school:

- Without following the statutory procedure or formally recording the event, e.g. sending them home to 'cool off'.

- Because they have special educational needs and/or a disability (SEND) that the school feels unable to support.
- Due to poor academic performance.
- Because they haven't met a specific condition, such as attending a reintegration meeting.
- By exerting undue influence on a parent to encourage them to remove their child from the school.

5. Roles and responsibilities

5.1 The Headteacher

Deciding whether to suspend or permanently exclude

Only the Executive Headteacher, the Headteacher or Acting Headteacher, can suspend or permanently exclude a pupil from school on disciplinary grounds. The decision can be made in respect of behaviour inside or outside of school. The Headteacher will only use permanent exclusion as a last resort. In the case of a Permanent Exclusion this must only be done after consulting with the Chief Executive Officer of the intention to impose this sanction.

A decision to suspend or exclude a pupil will be taken only:

- In response to serious or persistent breaches of the school's behaviour policy, **and**
- If allowing the pupil to remain in school would seriously harm the education or welfare of others.

Before deciding whether to suspend or exclude a pupil, the Headteacher will:

- Consider all the relevant facts and evidence on the balance of probabilities, including whether the incident(s) leading to the exclusion were provoked.
- Allow the pupil to give their version of events.
- Consider whether the pupil has special educational needs (SEN). The local governing board must comply with their statutory duties in relation to pupils with SEN when administering the exclusion process, including using their 'best endeavours' to ensure the appropriate special educational provision is made for pupils with SEN and having regard to the Special Educational Need and Disability (SEND) Code of Practice.
- Consider whether the pupil is especially vulnerable (e.g. the pupil has a social worker, or is a looked-after child (LAC)).
- Consider whether all alternative solutions have been explored, such as off-site direction or managed moves.

The Headteacher will consider the views of the pupil, in light of their age and understanding, before deciding to suspend or exclude, unless it would not be appropriate to do so.

Pupils who need support to express their views will be allowed to have their views expressed through an advocate, such as a parent or social worker.

The Headteacher will not reach their decision until they have heard from the pupil, and will inform the pupil of how their views were taken into account when making the decision. A pupil who has been suspended or permanently excluded will have the reason for this explained to them by a member of staff so that they understand the nature of their misbehaviour.

The school will also work to put in place a restorative programme for the pupil on their return. This will include input from staff at the school, parents, if appropriate, and any other appropriate agency. Should it be decided for whatever reason that the matter needs to be put in the hands of another agency i.e. the incident leads to the discovery that there is a child protection issue, the school will continue to monitor the situation and work closely with that agency. It is hoped that in most cases following suspension a pupil will be able to return to school and that further input will promote in them a more positive attitude and a subsequent improvement in behaviour.

Informing parents/carers/legal guardians

If a pupil is at risk of suspension or exclusion the Headteacher will inform the parents/carers/legal guardians as early as possible, in order to work together to consider what factors may be affecting the pupil's behaviour, and what further support can be put in place to improve the behaviour.

If the Headteacher decides to suspend or exclude a pupil, the parents/carers/legal guardians will be informed of the period of the suspension or exclusion and the reason(s) for it, without delay. This will be done on the day of the suspension being authorised by either direct phone contact or a face-to-face meeting. A written confirmation of the reason(s) for the suspension will be sent to parents within 24 hours. In the case of a Permanent Exclusion parents will be notified by the Headteacher in a face-to-face meeting wherever possible, unless in exceptional circumstances.

The parents/carers/legal guardians will also be provided with the following information in writing, without delay:

- the reason(s) for the suspension or permanent exclusion;
- the period of a suspension or, for a permanent exclusion, the fact that it is permanent;
- parents' right to make representations about the suspension or permanent exclusion to the governing board and how the pupil may be involved in this;
parents' (or an excluded pupil if they are 18 years or older) right to make a request to hold the meeting via the use of remote access and how and to whom to make this request (further information on other information this should include can be found in Appendix 4: Key principles when conducting meetings via the use of remote access);
- how any representations should be made; and
- where there is a legal requirement for the governing board to consider the suspension or permanent exclusion, that parents or an excluded pupil (if they are

The Headteacher will also notify parents/carers/legal guardians without delay and by the end of the afternoon session on the first day their child is suspended or permanently excluded, that:

- It is important that pupils still receive their education. Headteachers will take steps to ensure that work is set and marked for pupils during the first five school days of a suspension.
- For any permanent exclusion, the schools will take reasonable steps to ensure that work is set and marked for pupils during the first five school days where the pupil will not be attending alternative provision
- For the first 5 school days of an exclusion (or until the start date of any alternative provision or the end of the suspension, where this is earlier), the parents/carers/legal guardians are legally required to ensure that their child is not present in a public place

during school hours without a good reason. This will include specifying on which days this duty applies.

- All pupils returning from a suspension are required to attend a reintegration meeting, accompanied by a parent. This meeting will seek to establish practical ways in which further suspensions can be avoided and behaviour modified to acceptable standards in partnership between pupil, parent and the school.
- Parents/carers/legal guardians may be given a fixed penalty notice or prosecuted if they fail to do this.
- If alternative provision is being arranged, the following information will be included, if possible:
 - The start date for any provision of full-time education that has been arranged.
 - The start and finish times of any such provision, including the times for morning and afternoon sessions, where relevant.
 - The address at which the provision will take place. Any information the pupil needs in order to identify the person they should report to on the first day.

If the Headteacher does not have all the information about the alternative provision arrangements by the end of the afternoon session on the first day of the suspension or permanent exclusion, they can provide the information at a later date, without delay and no later than 48 hours before the provision is due to start.

The only exception to this is where alternative provision is to be provided before the sixth day of a suspension or permanent exclusion, in which case the school reserves the right to provide the information with less than 48 hours' notice, with parents/carers/legal guardians' consent

Informing the Local Governing Body and CEO

The relevant Local Authority, LDST's Chief Executive Officer and relevant school staff will be notified of all suspensions the same day of the production of the suspension letter. The Headteacher will, without delay, notify the Local Governing Body and CEO of:

- Any permanent exclusion, including when a suspension is followed by a decision to permanently exclude a pupil.
- Any suspension or permanent exclusion which would result in the pupil being suspended or permanently excluded for a total of more than 5 school days (or more than 10 lunchtimes) in a term.
- Any suspension or permanent exclusion which would result in the pupil missing a National Curriculum test or public exam.

The Headteacher will report to the Local Governing Body once per term of any other suspensions of which they have not previously been notified, and the number of suspensions and exclusions which have been cancelled, including the circumstances and reasons for the cancellation.

Informing the local authority (LA)

The Headteacher will notify the LA of all suspensions and permanent exclusions without delay, regardless of the length of a suspension.

The notification will include:

- The reason(s) for the suspension or permanent exclusion.
- The length of a suspension or, for a permanent exclusion, the fact that it is permanent.
- For a permanent exclusion, if the pupil lives outside the LA in which the school is located, the Headteacher will also, without delay, inform the pupil's 'home authority' of the exclusion and the reason(s) for it.

Informing the pupil's social worker and/or virtual school head (VSH)

if a pupil has a social worker, or if a pupil is looked-after, the headteacher must now, also without delay after their decision, notify the social worker and/or VSH, as applicable. If a:

- **Pupil with a social worker** is at risk of suspension or permanent exclusion, the Headteacher will inform **the social worker** without delay.
- **Pupil who is a looked-after child (LAC)** is at risk of suspension or exclusion, the Headteacher will inform **the VSH** without delay.

This is in order to work together to consider what factors may be affecting the pupil's behaviour, and what further support can be put in place to improve the behaviour.

If the Headteacher decides to suspend or permanently exclude a pupil with a social worker/a pupil who is looked after, they will inform the pupil's social worker/the VSH, as appropriate, without delay, that:

- They have decided to suspend or permanently exclude the pupil.
- The reason(s) for the decision.
- The length of the suspension or, for a permanent exclusion, the fact that it is permanent.
- The suspension or permanent exclusion affects the pupils ability to sit a National Curriculum test or public exam (where relevant).

The social worker/VSH will be invited to any meeting of the Local Governing Body about the suspension or permanent exclusion. This is so they can provide advice on how the pupil's background and/or circumstances may have influenced the circumstances of their suspension or permanent exclusion. The social worker should also help ensure safeguarding needs and risks and the pupil's welfare are taken into account.

Cancelling suspensions and permanent exclusions

The headteacher can cancel any exclusion that has already begun (or one that has not yet begun), but this can only happen when the governing board has not yet met to consider whether the pupil should be reinstated. Where an exclusion is cancelled:

- The headteacher must notify the parents, the governing board, the LA and the pupil's social worker and VSH as applicable, without delay. The notification must also provide the reason for the cancellation;
- The governing board's duty to consider reinstatement²¹ ceases, and there is no requirement to hold a meeting to consider reinstatement;
- Parents (or the excluded pupil if they are 18 years or older) should be offered the opportunity to meet the headteacher to discuss the circumstances that led to the exclusion being cancelled which should be arranged without delay;
- The pupil must be allowed back into the school from which they were excluded without delay.

- Any days spent out of school as a result of any exclusion, prior to the cancellation will count towards the maximum of 45 school days permitted in any school year
- A permanent exclusion cannot be cancelled if the pupil has already been excluded for more than 45 school days in a school year or if they will have been so by the time the cancellation takes effect. The parents/carers/legal guardians, Local Governing Body and LA will be notified without delay.

Providing education during the first 5 days of a suspension or permanent exclusion

During the first 5 days of a suspension, if the pupil is not attending alternative provision (AP), the Headteacher will take steps to ensure that achievable and accessible work is set and marked for the pupil. Online pathways such as Microsoft Teams may be used for this. If the pupil has a special educational need or disability, the Headteacher will make sure that reasonable adjustments are made to the provision where necessary.

If the pupil is looked after or if they have a social worker, the school will work with the LA to arrange AP from the first day following the suspension or permanent exclusion. Where this isn't possible, the school will take reasonable steps to set and mark work for the pupil, including the use of online pathways.

5.2 The Local Governing Body

Considering suspensions and permanent exclusions

Responsibilities regarding suspensions and permanent exclusions are delegated to a Suspension and Exclusion committee consisting of at least 3 local governors.

Governors on the Suspension and Exclusion committee should, as far as possible, have no prior knowledge of the matter. To discuss the matter in advance will compromise the ability of governors to reach a fair decision, based on natural justice, and could make the process invalid, and flawed Governors must not sit on the panel if any of the following apply:

- know the pupil and/or his/her family;
- witnessed the incident that led to the exclusion;
- have a child in the same class as the pupil involved, or have a child who was a witness to the incident and has told them about it;
- have a spouse/partner who was involved in the incident;
- for any other reason they may not be able to be impartial;
- is a member of the school staff;
- has discussed the exclusion incident with the Headteacher;

This Suspension and Exclusion committee has a duty to consider:

- parents/carers/legal guardians' representations about a suspension or permanent exclusion. It has a duty to consider the reinstatement of a suspended or permanently excluded pupil (see sections 5 and 6) in certain circumstances.
- parents/carers/legal guardians' representations about a suspension or permanent exclusion.
- the reinstatement of a suspended or permanently excluded pupil (see sections 7) in certain circumstances.

Within 14 days of receiving a request, the Local Governing Body will provide the secretary of state and LA with information about any suspensions or exclusions within the last 12 months.

For any suspension of more than 5 school days, the Local Governing Body will arrange suitable full-time education for the pupil. This provision will begin no later than the sixth day of the suspension.

Monitoring and analysing suspensions and exclusions data

The Local Governing Body will challenge and evaluate the data on the school's use of suspension, exclusion, off-site direction to alternative provision and managed moves.

The Local Governing Body will consider:

- How effectively and consistently the school's behaviour policy is being implemented.
- The school register and absence codes.
- Instances where pupils receive repeat suspensions.
- Interventions in place to support pupils at risk of suspension or permanent exclusion.
- Any variations in the rolling average of permanent exclusions, to understand why this is happening, and to make sure they are only used when necessary.
- Timing of moves and permanent exclusions, and whether there are any patterns, including any indications which may highlight where policies or support are not working.
- The characteristics of suspended and permanently excluded pupils, and why this is taking place.
- 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 and that pupils are benefiting from it.
- The cost implications of directing pupils off-site.

5.3 The local authority (LA)

For permanent exclusions, the LA will arrange suitable full-time education to begin no later than the sixth school day after the first day of the exclusion.

For pupils who are LAC or have social workers, the LA and the school will work together arrange suitable full-time education to begin from the first day of the exclusion.

6. Considering the reinstatement of a pupil

How any representations should be made

Where there is a legal requirement for the Local Governing Body to hold a meeting to consider the reinstatement of a pupil, parents/carers/legal guardians (or the pupil if they are 18 years old) have a right to attend the meeting, be represented at the meeting (at their own expense) and to bring a friend.

A Suspension and Exclusion Committee will consider and decide on the reinstatement of a suspended or permanently excluded pupil within 15 school days of receiving the notice of the suspension or exclusion if:

- The exclusion is permanent.

- It is a suspension which would bring the pupil's total number of days out of school to more than 15 in a term; or
- It would result in a pupil missing a public exam or National Curriculum test.

Where the pupil has been suspended, and the suspension does not bring the pupil's total number of days of suspension to more than 5 in a term, the Suspension and Exclusions committee must consider any representations made by parents/carers/legal guardians. However, it is not required to arrange a meeting with parents/carers/legal guardians and it cannot direct the Headteacher to reinstate the pupil.

Where the pupil has been suspended for more than 5 days, but less than 16 days, in a single term, and the parents/carers/legal guardians make representations to the Board, the Suspension and Exclusions committee will consider and decide on the reinstatement of a suspended pupil within 50 school days of receiving notice of the suspension. If the parents/carers/legal guardians do not make representations, the committee is not required to meet and it cannot direct the Headteacher to reinstate the pupil.

Where a suspension or permanent exclusion would result in a pupil missing a public exam or National Curriculum test, the Suspension and Exclusions committee will, as far as reasonably practicable, consider and decide on the reinstatement of the pupil before the date of the exam or test. If this is not practicable, the Chair of the Local Governing Body (or the Vice-Chair, if necessary) may consider the suspension or permanent exclusion and decide whether or not to reinstate the pupil.

The following parties will be invited to a meeting of the Local Governing Body and allowed to make representations or share information:

- Parents/carers/legal guardians, or the pupil if they are 18 or over (and, where requested, a representative or friend).
- The pupil, if they are aged 17 or younger and it would be appropriate to their age and understanding (and, where requested, a representative or friend).
- The Headteacher.
- The pupil's social worker, if they have one.
- The VSH, if the pupil is looked after.
- A representative of the local authority.

The Local Governing Body will try to arrange the meeting within the statutory time limits set out above and must try to have it at a time that suits all relevant parties. However, its decision will not be invalid simply on the grounds that it was not made within these time limits. Parents (if the pupil is under 18) or excluded pupils (if they are aged 18 years or older) can request a meeting to be held via the use of remote access but this should not be a default option. Governing boards or arranging authorities must hold the meeting via the use of remote access, if the request has been made correctly as set out in the headteacher's written notification) or the governing board's written notification to the parents that they can request an IRP. Holding meetings via remote access must only be done if governing boards or arranging authorities are satisfied that the meeting is capable of being held fairly and transparently.

The Suspension and Exclusions committee can either:

- Decline to reinstate the pupil, or

- Direct the reinstatement of the pupil immediately, or on a particular date (except in cases where the board cannot do this – see earlier in this section).

In reaching a decision, the Suspension and Exclusions committee will consider:

- Whether the decision to suspend or permanently exclude was lawful, reasonable, and procedurally fair.
- Whether the Headteacher followed their legal duties.
- The welfare and safeguarding of the pupil and their peers.
- Any evidence that was presented to the Local Governing Body.
- They will decide whether or not a fact is true 'on the balance of probabilities'.

Minutes will be taken of the meeting, and a record kept of the evidence that was considered. The outcome will also be recorded on the pupil's educational record, and copies of relevant papers will be kept with this record.

The Suspension and Exclusions committee will notify, in writing, the following stakeholders of its decision, along with reasons for its decision, without delay:

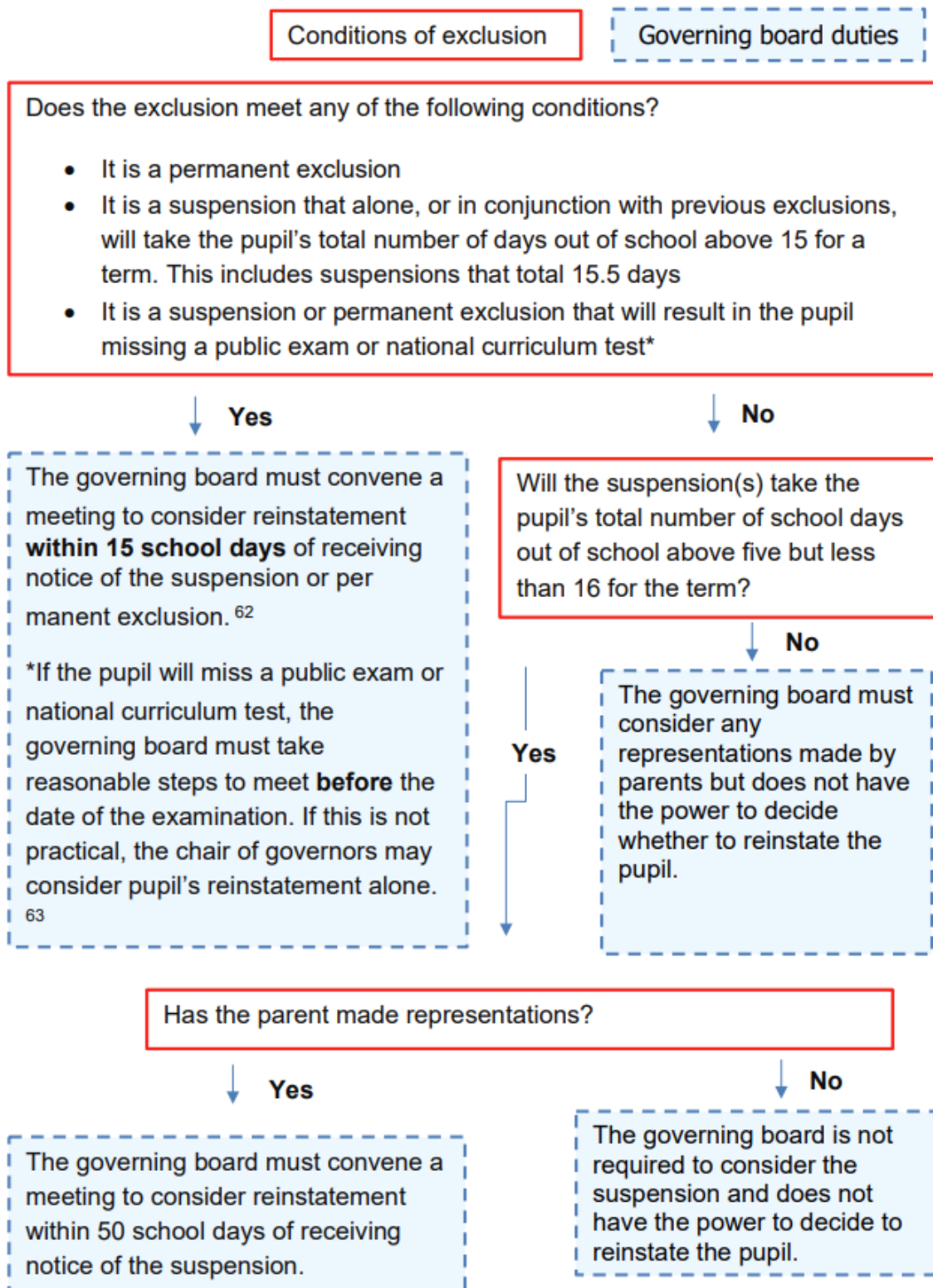
- The parents/carers/legal guardians, or the pupil, if they are 18 or older.
- The Headteacher.
- The pupil's social worker, if they have one.
- The VSH, if the pupil is looked after.
- The local authority.
- The pupil's home authority, if it differs from the school's.

Where an exclusion is permanent and the Suspension and Exclusions committee has decided not to reinstate the pupil, the notification of decision will also include the following:

- The fact that it is a permanent exclusion.
- Notice of parents/carers/legal guardians' right to ask for the decision to be reviewed by an independent review panel.
- The date by which an application for an independent review must be made (15 school days from the date on which notice in writing of the Local Governing Body's decision is given to parents/carers/legal guardians).
- The name and address to which an application for a review and any written evidence should be submitted.
- That any application should set out the grounds on which it is being made and that, where appropriate, it should include reference to how the pupil's special educational needs (SEN) are considered to be relevant to the permanent exclusion.
- That, regardless of whether the excluded pupil has recognised SEN, parents/carers/legal guardians have a right to require the LA to appoint an SEN expert to advise the review panel.
- Details of the role of the SEN expert and that there would be no cost to parents/carers/legal guardians for this appointment.
- That parents/carers/legal guardians must make clear if they wish for an SEN expert to be appointed in any application for a review.
- That parents/carers/legal guardians may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents/carers/legal guardians may also bring a friend to the review.

- That, if parents/carers/legal guardians believe that the permanent exclusion has occurred as a result of unlawful discrimination, they may make a claim under the Equality Act 2010 to the first-tier tribunal (special educational needs and disability), in the case of disability discrimination, or the county court, in the case of other forms of discrimination. Also that any claim of discrimination made under these routes should be lodged within 6 months of the date on which the discrimination is alleged to have taken place.

A summary of the governing board's duties to consider reinstatement⁶¹



A summary of the governing board's duties to consider reinstatement⁶⁴

1. Is it a permanent exclusion?

If the answer is yes, the governing board must convene a meeting to consider reinstatement **within 15 school days** of receiving notice of the permanent exclusion.

If the answer is no, go to step 2.

2. Is it a suspension that alone, or in conjunction with previous suspensions / exclusions, will take the pupil's total number of days out of school above 15 for a term?

If the answer is yes, the governing board must convene a meeting to consider reinstatement **within 15 school days** of receiving notice of the suspension. This includes suspensions that exceed 15 school days by less than a whole day, e.g. one that totals 15.5 days.

If the answer is no, go to step 3.

3. Is it a suspension or permanent exclusion that will result in the pupil missing a public exam or national curriculum test?

If the answer is yes, the governing board must convene a meeting to consider reinstatement **within 15 school days** of receiving notice of the suspension or permanent exclusion. The governing board must also take reasonable steps to meet **before** the date of the examination. If this is not practical, the chair of governors may consider pupil's reinstatement alone.

If the answer is no, go to step 4.

4. Will the suspension(s) take the pupil's total number of school days out of school above five but less than 16 for the term?

If the answer is yes, go to step 5.

If the answer is no, the governing board must consider any representations made by parents⁶⁵ but does not have the power to decide whether to reinstate the pupil.

5. Has the parent made representations?

If the answer is yes, the governing board must convene a meeting to consider reinstatement within 50 school days of receiving notice of the suspension.

7. Independent review

If parents/carers/legal guardians apply for an independent review within the legal timeframe, the LA will arrange for an independent panel to review the decision of the Local Governing Body not to reinstate a permanently excluded pupil.

Applications for an independent review must be made within 15 school days of notice being given to the parents/carers/legal guardians by Suspensions and Exclusions Committee of its decision to not reinstate the pupil **or**, if after this time, within 15 school days of the final determination of a claim of discrimination under the Equality Act 2010 regarding the permanent exclusion.

A panel of 3 members will be constituted with representatives from each of the categories below. At all times during the review process there must be the required representation on the panel:

- A lay member to chair the panel who has not worked in any school in a paid capacity, disregarding any experience as a school governor or volunteer.
- Current or former school governors who have served as a governor for at least 12 consecutive months in the last 5 years, provided they have not been teachers or Headteachers during this time.
- Headteachers or individuals who have been a Headteacher within the last 5 years.
- In the case of an academy the pupil's reinstatement may be considered by a committee of the trust board, including another LDST local governing body.

A person may not serve as a member of a review panel if they:

- Are the Headteacher of the excluding school, or have held this position in the last 5 years.
- Are an employee of the Academy Trust, or the Local Governing Body of the excluding school (unless they are employed as a Headteacher at another school).
- Have, or at any time have had, any connection with the school, Local Governing Body, parents/carers/legal guardians or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality.
- Have not had the required training within the last 2 years (see appendix 5 for what training must cover).

The panel must consider the interests and circumstances of the pupil, including the circumstances in which the pupil was permanently excluded, and have regard to the interests of other pupils and people working at the school.

Taking into account the pupil's age and understanding, the pupil or their parents/carers/legal guardians will be made aware of their right to attend and participate in the review meeting and the pupil should be enabled to make representations on their own behalf, should they desire to.

Where a SEN expert is present, the panel must seek and have regard to the SEN expert's view of how SEN may be relevant to the pupil's permanent exclusion.

Where a social worker is present, the panel must have regard to any representation made by the social worker of how the pupil's experiences, needs, safeguarding risks and/or welfare may be relevant to the pupil's permanent exclusion.

Where a VSH is present, the panel must have regard to any representation made by the social worker of how any of the child's background, education and safeguarding needs were considered

by the Headteacher in the lead up to the permanent exclusion, or are relevant to the pupil's permanent exclusion.

Following its review, the independent panel will decide to do 1 of the following:

- Uphold the Local Governing Body's decision.
- Recommend that the Local Governing Body reconsiders reinstatement.
- Quash the Local Governing Body's decision and direct that they reconsider reinstatement (only if it judges that the decision was flawed).

New evidence may be presented, though the school cannot introduce new reasons for the permanent exclusion or the decision not to reinstate. The panel must disregard any new reasons that are introduced.

In deciding whether the decision was flawed, and therefore whether to quash the decision not to reinstate, the panel must only take account of the evidence that was available to the Local Governing Body at the time of making its decision. This includes any evidence that the panel considers would, or should, have been available to the Local Governing Body and that it ought to have considered if it had been acting reasonably.

If evidence is presented that the panel considers it is unreasonable to expect the Local Governing Body to have been aware of at the time of its decision, the panel can take account of the evidence when deciding whether to recommend that the Local Governing Body reconsider reinstatement.

The panel's decision can be decided by a majority vote. In the case of a tied decision, the Chair has the casting vote.

Once the panel has reached its decision, the panel will notify all parties in writing without delay.

This notification will include:

- The panel's decision and the reasons for it.
- Where relevant, details of any financial readjustment or payment to be made if the Local Governing Body does not subsequently decide to offer to reinstate the pupil within 10 school days.
- Any information that the panel has directed the Local Governing Body to place on the pupil's educational record.

8. School registers

A pupil's name will be removed from the school admission register if:

- 15 school days have passed since the parents/carers/legal guardians were notified of Suspensions and Exclusions Committee's decision to not reinstate the pupil and no application has been made for an independent review panel, or
- The parents/carers/legal guardians have stated in writing that they will not be applying for an independent review panel.

Where an application for an independent review has been made within 15 school days, the Local Governing Body will wait until that review has concluded before removing a pupil's name from the register.

While the pupil's name remains on the school's admission register, the pupil's attendance will still be recorded appropriately. Where alternative provision has been made for an excluded pupil and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.

Where excluded pupils are not attending alternative provision, code E (absent) will be used.

Making a return to the LA

Where a pupil's name is to be removed from the school admissions register because of a permanent exclusion, the school will make a return to the LA. The return will include:

- The pupil's full name.
- The full name and address of any parent with whom the pupil normally resides.
- At least 1 telephone number at which any parent with whom the pupil normally resides can be contacted in an emergency.
- The grounds upon which their name is to be deleted from the admissions register (i.e., permanent exclusion).
- Details of the new school the pupil will attend, including the name of that school and the first date when the pupil attended or is due to attend there, if the parents/carers/legal guardians have told the school the pupil is moving to another school.
- Details of the pupil's new address, including the new address, the name of the parent(s) the pupil is going to live there with, and the date when the pupil is going to start living there, if the parents/carers/legal guardians have informed the school that the pupil is moving house.

This return must be made as soon as the grounds for removal is met and no later than the removal of the pupil's name.

9. Returning from a suspension

9.1 Reintegration strategy

Following suspension, the school will put in place a strategy to help the pupil reintegrate successfully into school life and full-time education.

Where necessary, the school will work with third-party organisations to identify whether the pupil has any unmet special educational and/or health needs.

The following measures may be implemented, as part of the strategy, to ensure a successful reintegration into school life: The points below are suggestions only and should be adapted to your school's specific circumstances.

- Maintaining regular contact during the suspension or off site direction and welcoming the pupil back to school.
- Daily contact with a designated person within school
- Mentoring by a trusted adult or local mentoring charity

- Regular reviews with the pupil and parents/carers/legal guardians to praise progress being made and raise and address any concerns at an early stage
- Informing the pupil, parents/carer/legal guardians and staff of potential external support.

Part-time timetables will not be used as a tool to manage behaviour and, if used, will be put in place for the minimum time necessary.

The strategy will be regularly reviewed and adapted where necessary throughout the reintegration process in collaboration with the pupil, parents/carers/legal guardians, and other relevant parties.

9.2. Reintegration meetings

The school will explain the reintegration strategy to the pupil in a reintegration meeting before or on the pupil's return to school. During the meeting the school will communicate to the pupil that they are getting a fresh start and that they are a valued member of the school community.

The pupil, parents/carers/legal guardians, a member of senior staff, and any other relevant staff will be invited to attend the meeting.

The meeting can proceed without the parents/carers/legal guardians in the event that they cannot or do not attend.

The school expects all returning pupils and their parents/carers/legal guardians to attend their reintegration meeting, but pupils who do not attend will not be prevented from returning to the classroom.

10. Monitoring arrangements

The school will collect data on the following:

- Attendance, permanent exclusions and suspensions.
- Use of pupil referral units, off-site directions and managed moves.
- Anonymous surveys of staff, pupils, local governors and other stakeholders on their perceptions and experiences.

The data will be analysed every term the Local Governing Body, during a LGB meeting.

The data will be analysed from a variety of perspectives including:

- At school level
- By age group
- By time of day/week/term
- By protected characteristic

The school will use the results of this analysis to make sure it is meeting its duties under the Equality Act 2010. If any patterns or disparities between groups of pupils are identified by this analysis, the school will review its policies in order to tackle it.

LDST will work with its academies to consider this data, and to analyse whether there are patterns across the Trust, recognising that numbers in any 1 academy may be too low to allow for meaningful statistical analysis.

This policy will be reviewed by LDST Directors every 2 years. At every review, the policy will be approved by Directors and shared with Headteachers and Local Governing Bodies.

Appendix 1

Appeal Panel Meeting

In response to serious 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 pupil or others in the school, based on the evidence presented to them, the panel have two basic options:

- to reinstate the pupil, immediately or on a future date; or
- to decline to reinstate.

In order to help them reach their judgement the meeting should take the following pattern.

1. Verbal statement from the Headteacher

This will be in support of any written evidence previously circulated.

- The Headteacher must be able to make their case on the day – it is not sufficient to rely on information previously sent out.
- They may invite other staff members to attend to offer supporting evidence, being careful not to be over represented.
- Panel members and parents/carers may make comments/ask questions after the Headteacher has presented their case.
- Written evidence should be circulated in advance it should be sent to all the parties involved at least 5 days prior to the meeting, this includes the parents/carers
- Witness statements should be signed and dated unless there is good reason not to.
- There should also be the excluded pupil's views, taking into account their age and understanding.
- It is acceptable to provide a list of the pupil's transgressions in a report from the Headteacher giving evidence why he/she feels the exclusion is justified. This should include sufficient detail to allow the panel to have a full picture of the situation i.e. Pastoral Support Plan, Individual Education Plan, Risk Assessment, details of intervention strategies and outcomes, whether a Family Support Plan has been offered or provided, and details of special education needs/disability and how these have been supported.

Questions to the Headteacher

- members may ask questions to clarify points after Headteacher has presented their case as well as parents/carers.

2. Verbal statement from the parent/carer (or pupil if appropriate)

This should support any written evidence that they asked to be circulated in advance.

- The parent/carer/pupil may ask that their friend or representative speak on their behalf

Questions to parents/carers

- Panel members may make ask questions as well as the Headteacher.
- If pupil is in attendance, they may also be questioned

3. Final clarification

The Chair of the panel should ensure that all parties, especially the parents/carers/pupil, have had an opportunity to say what they wish to and that all points are clear.

Panel members should be confident that they have all the information they need to be able to reach a correct decision.

4. Reaching a Decision

At this point everyone other than the panel and clerk should withdraw from the meeting, to allow the panel to discuss the case/s under consideration and form a judgement.

Where parents make it clear they do not wish their child reinstated, the panel must, in any event, consider whether the Headteacher's decision to exclude the child was justified based on the evidence. In this case a note should be attached to the child's school record, to clarify if the panel did not support the Headteacher's action.

Where the panel judged that exclusion was not the correct course of action, it may reinstate the pupil. In these cases, some of the following might apply:

- the Headteacher did not provide relevant or sufficient evidence to support his/her case for an exclusion, or;
- the panel judged that insufficient strategies had been put in place to support the pupil prior to the incident that resulted in the exclusion (i.e. it could have been avoided if the school had given better support), or;
- Appendix A – Appeal Panel Meeting Page 9 of 14
- the parent/carer has made an acceptable representation against the exclusion, e.g. provided evidence of mitigating circumstances, provided evidence to support their child's views with regard to their case;
- the child had not been given a voice at the meeting and their views captured by the school;
- strategies could include the use of a Pastoral Support Plan; a risk assessment of the potential hazard the pupil presents or faces; or in the case of Looked After Children, whether their Personal Education Plan has been reviewed;
- based on the balance of probabilities they felt the Headteacher's decision was not lawful, reasonable and procedurally fair.

There are times when pupils with Education, Health and Care Plans are exhibiting behaviour that might lead to their exclusion, or have been excluded. In these cases the school should have requested a review of this to establish that the child has the appropriate level of support in the school, or is even the appropriate school for the pupil to attend, this may not always

happen as a one off offence of physical violence etc., An external review may also be requested where pupils and their behaviour has deteriorated. Where a child with an Education, Health and Care Plan is excluded from school the panel should always ask what the school has done to support the pupil before exclusion is imposed and satisfy itself that the school has done all it can. Schools should call a review if they feel the pupil's behaviour has deteriorated or the pupil is struggling to cope. Parents/carers of a pupil with an Education, Health and Care Plan must be informed of their right to appeal to First Tier Tribunal with regard to any exclusion. If parents believe that the exclusion has occurred as a result of discrimination they may make a claim under the Equality Act 2010, so the panel need to consider whether the school has made reasonable adjustments with regard to the disability.

5. Record Keeping

The clerk will take Minutes of:

- the evidence and questions by all parties
- the main points of the discussion by panel members;
- the decision reached, and:
- the supporting reasons.
- how the pupils views were captured

The panel may include comments or make recommendations but cannot put conditions on exclusion or the outcome.

6. Communicating the outcome

A formal letter detailing the decision, and setting out the reasons why the panel have reached their conclusion, should be sent to the parent/ carer without delay, either hand delivered or posted by first class mail.

7. Further action

In the case of an exclusion, the parents/carers must be informed in the letter from the panel of how they can make an application to an **Independent Review Panel**. Where parents make an application against an exclusion to an Independent Review Panel after the panel meeting, they can only:

- uphold the decision;
- recommend that the panel reconsider their decision; or
- quash the decision and direct the panel to reconsider the exclusion again. The Independent Review Panel cannot direct reinstatement, only the panel and the First Tier Tribunal can reinstate.

Where sent back to panel and recommended to reconsider, or where the decision is quashed and direction is given to the panel to reconsider:

- this has to take place 10 school days from the date of receipt of the outcome of the Independent Review Panel.
- It is then the decision of the panel to review the decision not to reinstate and write to the parent and Headteacher of their decision without delay. One copy of all paperwork needs to be kept as a parent can go the First Tier Tribunal re disability discrimination

before and after an Independent Review. Claims can be up to 6 months after the review.

Model Suspension Letter

Insert school address

Date

Insert address of parents /carers

Dear INSERT NAME

RE: Suspension – INSERT PUPIL INITIALS AND D.O.B

I am writing to inform you of my decision to suspend (insert pupils name) for a fixed period of (insert number 0.5 – 5) school days. This means that they will not be allowed in school for this period.

The suspension begins today, (insert date) and ends on (insert date and time). The suspension expires on (insert time and date), and we expect your child to be back in school on (insert day, date and time), accompanied by parents for a reintegration meeting.

I realise that this suspension may well be upsetting for you and your family, but the decision to suspend your child has not been taken lightly. (Insert pupil name) has been suspended for this fixed period because of (delete or add as appropriate):

- A physical and/or verbal assault of pupil/adult.
- Damage to school property
- Extreme misbehaviour which is deemed outside the remit of the normal range of sanctions

You have a duty to ensure that your child is not present in a public place during school hours for the period of the suspension unless there is reasonable justification for this. I must advise you that you may receive a penalty notice from the local authority if your child is present in a public place during school hours on the specified dates. If so, it will be for you to show reasonable justification.

You have the right to make representations about this decision to the Local Governing Body, via the Clerk. If you wish to make representations please contact xxxxxxxxxxxxxxxx, as soon as possible.

Whilst the LGB governors have no power to direct reinstatement, they can consider any representations you make and may place a copy of their findings on your child's school record.

You should also be aware that if you think the suspension relates to a disability your child has, and you think disability discrimination has occurred, you have the right to appeal, and/or make a claim, to the Special Educational Needs and Disability Tribunal (SENDIST). The address to which appeals should be sent is SENDIST, Mowden Hall, Staindrop Road, Darlington DL3 9DN. You may wish to contact **INSERT LOCAL AUTHORITY DETAILS**, who can provide advice. You may also find it useful to contact the Advisory Centre for Education (ACE) – an independent national advice centre for parents of children in state schools. They offer information and

support on state education in England and Wales, including on exclusion from school. They can be contacted on 020 7704 9822 or at www.ace-ed.org.uk

Yours sincerely Headteacher

Model exclusion letter

Insert school address

Date

Insert address of parents /carers

Dear [Parent's Name]

I regret to inform you of my proposal to permanently exclude (pupil name) with effect from (date). This means that your child will not be allowed in this school unless they are reinstated by the governors.

I realise that this exclusion may well be upsetting for you and your family, but the decision to permanently exclude your child has not been taken lightly. (Child's name) has been excluded because [reasons for the exclusion – including any other relevant previous actions the school has taken to support the child].

You have a duty to ensure that your child is not present in a public place during school hours for the first 5 school days of this exclusion, unless there is reasonable justification. You could be prosecuted or receive a penalty notice if your child is present in a public place during school hours on those dates. It will be for you to show reasonable justification.

Alternative arrangements for your child's education to continue will be made. For the first five school days of the exclusion we will set work for (child's name) and would ask you to ensure this work is completed and returned promptly to school. From the sixth school day of the exclusion onwards – i.e. from insert date – the local authority are responsible for providing suitable full-time education.

As this is a permanent exclusion the governors must meet to consider it. At the meeting you may make representations and ask them to reinstate your child in school. Your child can also attend the meeting if you wish. The governors have the power to reinstate your child immediately or from a specified date, or alternatively, they have the power to uphold the exclusion in which case you may make application against their decision to an Independent Review Panel. The latest date by which the governors must meet is (insert date). If you wish to make representations to the governors and/or wish to be accompanied by your child/young person, a friend or representative please contact the **Clerk to the LGB**.

You will, whether you choose to make representations or not, be notified by the governors of the time, date and location of the meeting. Please let us know if you have a disability or special needs which would affect your ability to attend the meeting. Also, please inform clerking services if it would be helpful for you to have an interpreter present at the meeting. You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to appeal, and/or make a claim, to the First Tier Tribunal (<http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/send/index.htm>). Making a claim would not affect your right to make representations to the local governing body. Exclusion guidance can be obtained from the Department for Education website at <http://www.education.gov.uk/schools/pupilsupport/behaviour/exclusion> You may also find it

useful to contact the Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on <http://www.childrenslegalcentre.com> Advice

You may also wish to contact [Name] at [LA name] on/at [contact details — address, phone number, email], who can provide advice on what options are available to you.

Yours sincerely Headteacher

Requests for remote access meetings for governing board meetings or IRPs

Parents (if the pupil is under 18) or excluded pupils (if they are aged 18 years or older) can request a meeting to be held via the use of remote access but this should not be a default option. Governing boards or arranging authorities must hold the meeting via the use of remote access, if the request has been made correctly as set out in the headteacher's written notification the governing board's written notification to the parents⁹³ that they can request an IRP).

Holding meetings via remote access must only be done if governing boards or arranging authorities are satisfied⁹⁴ that the meeting is capable of being held fairly and

Remote access meeting duties.

If a governing board meets to consider and decide on reinstatement of a suspended or permanently excluded pupil either via the use of remote access, this must happen within 15 school days of receiving notice of a suspension or permanent exclusion from the headteacher.

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

Where a parent does not request a remote meeting or does not state a wish either way, governing boards and arranging authorities must hold the meeting in person unless it is not reasonably practicable to do so in person for a reason related to extraordinary events or unforeseen circumstances such as an unforeseen school closure due to floods, fire or outbreak of infectious illness/disease.

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

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

Governing boards, arranging authorities and panel members must:

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

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

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

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

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

Guidance for Social Workers and VSHs

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

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

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

Independent review panel training

The LA must make sure that all members of an independent review panel and clerks have received training within the 2 years prior to the date of the review.

Training must have covered:

- The requirements of the primary legislation, regulations and statutory guidance governing suspensions and permanent exclusions on disciplinary grounds, which would include an understanding of how the principles applicable in an application for judicial review relate to the panel's decision making.
- The need for the panel to observe procedural fairness and the rules of natural justice.
- The role of the Chair and the clerk of a review panel.
- The duties of Headteachers, Local Governing Bodies and the panel under the Equality Act 2010.
- The effect of section 6 of the Human Rights Act 1998 (acts of public authorities unlawful if not compatible with certain human rights) and the need to act in a manner compatible with human rights protected by that Act.

