



# The Gateway Trust

## Suspension & Exclusions Policy (Schools)

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# Change Log

**14/10/24**

This is now an All Schools level policy

**01/10/24**

Version 1 (V15 of Primary Phase adapted policy, V1 of Secondary Phase)

Upon the joining of another secondary school to TGT, the decision has been made to evolve this policy to a secondary specific policy.

On 19 August 2024 the DfE made technical changes ([guidance available here](#)) to the statutory guidance to reflect new regulations on school attendance available here. [The School Attendance \(Pupil Registration\) \(England\) Regulations 2024](#). This policy should be used in conjunction with the above documents.

There has also been changes to Section 7, page 11 off site direction

**30/05/2023**

Version: 14

We have added a version of this policy to this page that has been created in line with the updated 'Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement' DfE guidance, which comes into force on 1 September 2023. This version of the policy contains new information on cancelling exclusions and holding meetings via remote access, as well as considerations for LAC and SEND pupils. Changes have been highlighted in yellow.

**Date: 01/09/2022**

Version: 13

We have updated this policy to reflect minor changes that were made to the DfE's suspension and exclusion guidance on 1 September since the original publication earlier this year.

**Date: 10/08/2022**

Version: 12

We have updated this policy to clarify some information regarding the governing board's role and duties when considering suspensions and permanent exclusions. This policy is up to date with the DfE's 'School suspensions and permanent exclusions' guidance.

**Date: 20/07/2022**

Version: 11

This policy has been updated in line with the DfE's latest guidance on suspensions, exclusions and behaviour. Specifically, it includes new sections on the duty to inform social workers and the virtual school head, preventative measures, and using exclusions data; it also includes updates to the sections

on the grounds for suspension and exclusion, the headteacher's power to suspend and exclude, the duty to inform the governing board and the LA, and considering suspensions and exclusions.

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# 1. Legal framework

- 1.1. This policy has due regard to all relevant legislation including, but not limited to, the following:
  - 1.1.1. Education Act 1996
  - 1.1.2. Education Act 2002 Off Site Direction - Legislation (does not apply to academies but for guidance)
  - 1.1.3. Education and Inspections Act 2006
  - 1.1.4. The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007
  - 1.1.5. Equality Act 2010
  - 1.1.6. The School Discipline (Pupil Exclusions and Reviews) (England) (Amendment and Transitional Provision) Regulations 2023
  - 1.1.7. The European Convention on Human Rights (ECHR)
  - 1.1.8. This policy also has due regard to statutory and non-statutory guidance, including, but not limited to, the following:
    - 1.1.9. DfE (August 2024) 'Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement'
    - 1.1.10. DfE (2022) 'Behaviour in Schools'
    - 1.1.11. DfE (2015) 'Special educational needs and disability code of practice: 0 to 25 years'
    - 1.1.12. DfE (2018) 'Mental health and behaviour in schools'
    - 1.1.13. Off Site Direction Par36 DfE suspensions and permanent exclusion guidance
    - 1.1.14. The School Attendance (Pupil Registration) (England) Regulations 2024
- 1.2. This policy operates in conjunction with the following school policies:
  - 1.2.1. Behaviour Policy
  - 1.2.2. Anti-bullying Policy
  - 1.2.3. Special Educational Needs and Disabilities (SEND) Policy
  - 1.2.4. Child Protection and Safeguarding Policy

# 2. Roles and responsibilities

- 2.1. The LA is responsible for:

- 2.1.1. Having due regard to the relevant statutory guidance when carrying out its duties in relation to the education of LAC.
- 2.1.2. Arranging suitable full-time education for any pupil of compulsory school age excluded permanently, in coordination with the school.
- 2.1.3. 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.
- 2.1.4. Arranging the hearing without delay at a time, date and venue convenient for all parties.
- 2.1.5. Ensuring the independent review panel consists of three or five members as appropriate, which represent the required categories.
- 2.1.6. Ensuring all panel members and the clerk have received training within the two years prior to the date of the review.
- 2.1.7. If requested by parents, appointing a SEND expert to attend the panel and covering the associated costs of this appointment.

**2.2. The trust is responsible for:**

- 2.2.1. Arranging for an independent review panel hearing to review the decision of the local governing board not to reinstate a permanently excluded pupil where required.
- 2.2.2. Arranging for the independent review panel hearing to be held via remote access where requested by parents or excluded pupils aged 18 and above.

**2.3. The local governing board is responsible for:**

- 2.3.1. If an LGB's availability could potentially delay adherence to any required timelines stipulated in national guidance documentation, additional representation can be drawn from Governance and Trustees within TGT. Ideally, the majority of the governor due consideration or representation will be from the specific school LGB although this may not always be practical or possible.
- 2.3.2. Providing information to the Secretary of State and LA about any suspensions and exclusions within the last 12 months.
- 2.3.3. Arranging suitable full-time education for any pupil of compulsory school age who is suspended, where required.
- 2.3.4. Considering parents' representations about suspensions and exclusions within 15 school days of receiving notice if the appropriate requirements are met.
- 2.3.5. Where a suspension or exclusion would result in a pupil missing a public examination or test, considering the suspension or exclusion before this date.

- 2.3.6. Considering whether it would be appropriate for a pupil to be permitted onto the school premises to sit the public examination or test.
- 2.3.7. Arranging the representation meeting at a time and date convenient to all parties, but in compliance with the statutory time limits.
- 2.3.8. Arranging for the representation meeting to take place via remote access where requested by parents or excluded pupils aged 18 and over.
- 2.3.9. Adhering to its responsibilities to consider the reinstatement of pupils.
- 2.3.10. Considering the interests and circumstances of the suspended or excluded pupil, including the circumstances in which they were suspended or excluded, and have due regard to the interests of others at the school.
- 2.3.11. 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.
- 2.3.12. Ensuring clear minutes are taken of the representation meeting.
- 2.3.13. Noting the outcome of the representation meeting on the pupil's education record, along with copies of relevant papers for future reference.
- 2.3.14. Notifying the pupil's parents, the headteacher and the LA of its decision and the reasons for it, without delay.
- 2.3.15. Appointing a clerk to provide advice to the relevant panel and parties to the review on procedure, law and statutory guidance on suspensions and exclusions.
- 2.3.16. Where appropriate, informing parents of where to apply for an independent review panel.
- 2.3.17. Informing parents of relevant sources of information.
- 2.3.18. Ensuring a pupil's name is removed from the school admissions register, where appropriate.
- 2.3.19. Reconvening within 10 school days to reconsider reinstatement of a pupil where directed to do so by the suspensions and exclusions review panel.
- 2.3.20. Using data to evaluate the school's practices regarding intervention, suspension and exclusion.

2.4. **The clerk to the suspensions and exclusions review panel is responsible for:**

- 2.4.1. Informing the appropriate individuals that they are entitled to:
  - 2.4.1.1. Make written representations to the panel.
  - 2.4.1.2. Attend the hearing and make oral representations to the panel.

- 2.4.1.3. Be represented.
  - 2.4.2. Circulating copies of relevant papers at least five school days before the review to all parties.
  - 2.4.3. Giving all parties details of those attending and their role, once the position is clear.
  - 2.4.4. Attending the review and ensuring that minutes are produced in accordance with instructions from the panel within the timeframe of the policy.
- 2.5. **The headteacher is responsible for:**
- 2.5.1. Implementing good levels of discipline to ensure all pupils can benefit from the opportunities provided by education and to minimise potential suspensions and exclusions.
  - 2.5.2. Applying the civil standard of proof when establishing the facts in relation to a suspension or exclusion.
  - 2.5.3. Complying with their statutory duties in relation to pupils with SEND when administering the suspension or exclusion process, as outlined in the Special Educational Needs and Disabilities (SEND) Policy.
  - 2.5.4. Considering any contributing factors that are identified after an incident of poor behaviour has occurred, e.g. if a pupil has suffered bereavement, experienced bullying or has a mental health issue.
  - 2.5.5. Considering the use of a multi-agency assessment for a pupil who demonstrates persistent disruptive behaviour.
  - 2.5.6. Reviewing the effectiveness of suspensions and exclusions as sanctions, e.g. if a pupil has received multiple suspensions or is approaching the legal limit for suspensions in an academic year.
  - 2.5.7. Considering what extra support may be needed to identify and address the needs of individual pupils, particularly those with SEND, those eligible for FSM, LAC and those from certain ethnic groups.
  - 2.5.8. Engaging effectively with parents in supporting the behaviour of pupils with additional needs.
  - 2.5.9. Determining whether a pupil will be suspended or excluded on disciplinary grounds.
  - 2.5.10. Adhering to their responsibilities when cancelling an exclusion before the local governing board has met to consider whether the pupil should be reinstated. Withdrawing any suspensions or exclusions that have not been reviewed by the local governing board, where appropriate.

- 2.5.11. Ensuring any decision to suspend or exclude is lawful, rational, reasonable, fair and proportionate.
- 2.5.12. Complying with the requirements of the Equality Act 2010 when deciding whether to suspend or exclude a pupil.
- 2.5.13. Ensuring they have considered their legal duty of care when sending a pupil home following a suspension or exclusion.
- 2.5.14. Making the decision to suspend or exclude based on the evidence available at the time, regardless of any police investigation and/or criminal proceedings.
- 2.5.15. Notifying a pupil's parents without delay where the decision is taken to suspend or exclude the pupil, including the days on which the parents must ensure the pupil is not present in a public place at any time during school hours, as well as any other necessary information statutorily required.
- 2.5.16. Ensuring that all information provided to parents is clear and easily understood.
- 2.5.17. Notifying the governor responsible and LA of their decision to exclude a pupil where appropriate, as well as the pupil's home authority if required.
- 2.5.18. Notifying the local governing board once per term of any suspensions and exclusions in the headteacher's report to governors.
- 2.5.19. Organising suitable work for excluded pupils where alternative provision cannot be arranged.

### **3. Grounds for suspension or exclusion**

- 3.1. The school will only suspend or exclude a pupil where it is absolutely necessary, and where all other possible disciplinary sanctions, as detailed in the school's Behaviour Policy, have failed to be successful.
- 3.2. The following examples of behaviour may warrant the decision to suspend or exclude a pupil:
  - 3.2.1. Physical assault against a pupil
  - 3.2.2. Physical assault against an adult
  - 3.2.3. Verbal abuse or threatening behaviour against a pupil
  - 3.2.4. Verbal abuse or threatening behaviour against an adult
  - 3.2.5. Use, or threat of use, of an offensive weapon or prohibited item
  - 3.2.6. Bullying



- 3.2.7. Discriminatory abuse, e.g. racist, homophobic, biphobic, transphobic or ableist abuse
- 3.3. 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 headteacher will decide whether a pupil will be subject to a suspension or an exclusion, depending on what the circumstances warrant.
- 3.4. The school has the power to direct a pupil off-site to improve their behaviour.

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

- 4.1. Only the headteacher has the power to suspend or exclude a pupil from the school, and is able to decide whether either a suspension or exclusion is appropriate. All suspensions and exclusions will only be issued on disciplinary grounds.
- 4.2. The headteacher is able to suspend pupils where their behaviour is disruptive during lunchtime. All lunchtime suspensions will be counted as half of a school day. The headteacher is also able to consider a pupil's disruptive behaviour outside of the school premises as grounds for suspension or exclusion, in accordance with the school's Behaviour Policy.
- 4.3. When sending a pupil home following any suspension or exclusion, the headteacher will ensure that they exercise their duty of care at all times and will always inform the parents.
- 4.4. 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 headteacher will take into account their legal duties under the Equality Act 2010 and the 'Special educational needs and disability code of practice: 0 to 25 years', ensuring that they do not discriminate on any grounds and will not increase the severity of a pupil's suspension or exclusion on these grounds.
- 4.5. The headteacher will apply the civil standard of proof when responding to the facts relating to a suspension or exclusion, i.e. that 'on the balance of probabilities' it is more likely than not that the facts are true.
- 4.6. The headteacher may cancel any suspension or exclusion that has already begun, or one that has not yet begun; however, this power will only be used if the suspension or exclusion has not already been reviewed by the local governing board.
- 4.7. Where a suspension or exclusion is cancelled, the headteacher will notify the pupil's parents, the local governing board, the LA, and, where relevant, the virtual school head

(VSH) and the pupil's social worker. The notification will also provide the reason for the cancellation. The headteacher will offer the pupil's parents the opportunity to meet with the headteacher to discuss the circumstances that led to the cancellation of the exclusion, and the pupil will be allowed back into school without delay.

- 4.8. When a suspension or exclusion is cancelled, the local governing board's duty to consider reinstatement ceases, and there is no requirement to hold a meeting to consider reinstatement.
- 4.9. Any days spent out of school as a result of a suspension or exclusion prior to it being cancelled will count towards the maximum 45 school days that a pupil can be suspended or excluded in an academic year. A permanent exclusion will not be cancelled if the pupil has already been suspended or excluded for more than 45 school days in an academic year or if they will have been so by the time the cancellation takes effect.
- 4.10. The headteacher will report the number of suspensions and exclusions that have been cancelled, alongside the circumstances around and reasons for cancellation, to the local governing board once per term, to allow the local governing board to have appropriate oversight.
- 4.11. The headteacher will not issue any 'informal' or 'unofficial' suspensions or exclusions, e.g. sending a pupil home to 'cool off', regardless of whether the parents have agreed to this. The headteacher will not use the threat of suspension or exclusion as a means of instructing parents to remove their child from the premises.
- 4.12. All suspensions and exclusions will be formally recorded on the school's pupil information system.

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

- 5.1. When considering the suspension or exclusion of a pupil, the headteacher will:
  - 5.1.1. Allow the pupil the opportunity to present their case once evidence has been collected.
  - 5.1.2. 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.
  - 5.1.3. 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.
  - 5.1.4. Consider early intervention to address underlying causes of disruptive behaviour, including liaising with external agencies, to assess pupils who demonstrate consistently poor behaviour.

- 5.2. The headteacher will consider what extra support may be available for vulnerable pupil groups whose suspension and exclusion rates are higher, to reduce their risk of suspension or exclusion, including the following:
  - 5.2.1. LAC
  - 5.2.2. Pupils eligible for FSM
  - 5.2.3. Pupils with SEND
  - 5.2.4. Certain ethnic groups
- 5.3. The headteacher may seek additional advice for particular children when excluding LAC, those with SEMH issues or pupils with an EHC plan.
- 5.4. Where SEND or SEMH issues are identified, an individual behaviour plan will be considered as part of the pupils' SEND needs.
- 5.5. If the pupil continues to endanger the physical or emotional wellbeing of other pupils or staff, despite exhausting the graduated response process, then suspension or exclusion may be considered with a clear evidence base.
- 5.6. The Equality Act 2010 requires schools to make reasonable adjustments for disabled pupils. This duty can in principle apply both to the suspensions and permanent exclusions process and to the disciplinary sanctions imposed. Pupils with identified SEND or SEMH issues can therefore only be suspended or excluded **if** they can demonstrate that they have used their 'best endeavours' to ensure the appropriate special educational provision is made for pupils with SEN, which will include any support in relation to behaviour management that they need because of their SEN.
- 5.7. Where a pupil with SEND or SEMH issues is excluded because of a SEND- or SEMH-related need that could not be met at the school, detailed records will be kept highlighting that these pupils are closely tracked and showing that the school has a close relationship with the pupil's next destination.
- 5.8. The headteacher will work in conjunction with the parents of any pupil with additional needs to establish the most effective support mechanisms.

## 6. Preventative measures

- 6.1. Before taking a final decision to exclude, the headteacher will consider whether it is in the best interests of all parties to initiate off-site directions or managed moves as preventative measures to exclusion.

## 7. Off-site direction

- 7.1. The board of trustees may use their general powers to arrange for any registered pupil to attend at any place outside the school premises for the purpose of receiving educational provision intended to improve their behaviour.
- 7.2. The local governing board and the headteacher will decide whether off-site direction is an appropriate solution to manage a pupil's behaviour in order to avoid suspension or exclusion. 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, off site direction does not require parental agreement.
- 7.3. The local governing board will notify the LA if the pupil whom is being directed off site has an EHC plan, in writing with information about the placement.
- 7.4. The school will keep any off-site direction under review by holding review meetings at intervals deemed appropriate by the local governing board delegated to the Headteacher; the local governing board, delegating authority to the Headteacher, will ensure, where possible, that review meetings are convened at a time suitable for the pupil's parents. The school will invite parents to each review meeting.
- 7.5. The Headteacher or their delegated authority 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.

## 8. Managed moves

- 8.1. Where it is thought to be in a pupil's best interest to transfer them to another mainstream school permanently, the headteacher and local governing board will discuss this with the parents of the pupil, and the LA if the pupil has an EHC plan – managed moves will only go ahead with the voluntary agreement of all parties involved, including the parents and the admission authority of the new school.
- 8.2. 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.
- 8.3. 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.

## 9. Duty to inform parents

- 9.1. Following the headteacher's decision to suspend or exclude a pupil, they will immediately inform the parents, or the excluded pupil if they are 18 or older, in person or by telephone, supported by email communication, of the period of the suspension, or permanency of the exclusion, and the reasons behind this.
- 9.2. The headteacher will inform the parents in writing of the following:
  - 9.2.1. The reasons for the suspension or exclusion
  - 9.2.2. The length of the suspension or permanency of the exclusion
  - 9.2.3. Their right to raise any representations about the suspension or exclusion to the local governing board, including how the pupil will be involved in this and how the representations will be made
  - 9.2.4. Their right to make a request to hold the meeting via remote access and how this request can be made
  - 9.2.5. Their right to attend a meeting where there is a legal requirement for the local governing board to consider the suspension or exclusion, and the fact that they are able to bring an accompanying individual
  - 9.2.6. 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
  - 9.2.7. Relevant sources of free, impartial information
- 9.3. Where the pupil is of compulsory school age, the headteacher will inform the parents by the end of the afternoon session that for the first five days of the suspension or exclusion (or until the start date of any alternative provision or the end of the suspension, where this is earlier), parents are legally required to ensure that their child is not present in a public place during school hours without justification, and that parents may receive a penalty fine if they fail to do so.
- 9.4. Where the headteacher has arranged alternative provision, they will also inform the parents of the following:
  - 9.4.1. The start and end date for any provision of full-time education
  - 9.4.2. The address at which the provision will take place
  - 9.4.3. Any information necessary for the pupil to identify the person they should report to on the starting date
- 9.5. Where the headteacher is unable to provide information on alternative provision by the end of the afternoon session, they will provide the information in a subsequent written

notice without further delay, and within 48 hours of the pupil beginning the provision. If the alternative provision is due to begin before the sixth day of the suspension or exclusion, the headteacher is able to give less than 48 hours of notice, with parental consent.

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

## **10. Duty to inform the local governing board and LA**

- 10.1. The headteacher will inform the local governing board, without delay, of the following:
- 10.2. Any permanent exclusions (including where a suspension is followed by a decision to permanently exclude the pupil)
- 10.3. Any suspensions which would result in the pupil being suspended for more than 5 school days in a term (or more than 10 lunchtimes)
- 10.4. Any suspensions or exclusions which would result in the pupil being absent from an examination or national curriculum test
- 10.5. For any suspensions and exclusions, other than those above, the headteacher will notify the local governing board once per term.
- 10.6. The headteacher will inform the Phase Director and CEO of all suspensions over 3 days.
- 10.7. The Headteacher will work with the Phase Director and CEO in the case of any pupil at risk of Permanent Exclusion. An emergency strategy meeting will take place with the CEO and Phase director plus HT and any other relevant school staff prior to any final decision to permanently exclude.
- 10.8. The Headteacher will inform the LA of a permanent exclusion.
- 10.9. All notifications to the local governing board and LA will include the reasons for suspension or exclusion and the duration of any suspension.
- 10.10. If a pupil who is suspended or excluded lives outside the LA in which the school is located, the headteacher will notify the pupil's 'home authority'.

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

- 11.1. When a pupil has been suspended or excluded, the headteacher will, without delay, notify the pupil's social worker, if they have one, and the VSH, if they are a looked-after

child. This notification will include the period of any suspension and the reasons for suspension or permanent exclusion.

- 11.2. Social workers and/or the VSH will also be informed when a meeting of the local governing board is taking place, and will be invited to attend the meeting should they wish to do so.
- 11.3. Social workers and VSHs will be allowed to join a local governing board meeting or independent review panel via the use of remote access, as long as the arranging authority is satisfied they will be able to participate effectively, they can hear and be heard throughout the meeting, and their remote participation will not prevent the meeting being fair and transparent.

## **12. Arranging education for suspended and excluded pupils**

- 12.1. For any suspensions of more than five school days, the local governing board will arrange suitable full-time education for the pupil, which will begin no later than the sixth day of suspension. Where a pupil receives consecutive suspensions, these will be regarded as cumulative, and full-time education will still have to be provided from the sixth day of suspension. For exclusions, full-time education will be provided for the pupil from the sixth day of exclusion.
- 12.2. The local governing board will not arrange full-time education for any pupil who is currently in their final year of compulsory education, and who does not have any further public examinations to sit.
- 12.3. The local governing board is aware that it is beneficial to suspended and excluded pupils to begin their alternative education arrangements before the sixth day of suspension or exclusion; therefore, the local governing board will always attempt to arrange alternative provision before the sixth day. Where it is not possible to arrange alternative provision during the first five days, the school will ensure that they take reasonable steps to set and mark work for the pupil.
- 12.4. If a pupil with SEND has been suspended or excluded, the local governing board will ensure that:
- 12.5. Any alternative provision is arranged in consultation with the pupil's parents, who are able to request preferences.
- 12.6. When identifying alternative provision, any EHC plan is reviewed or the pupil's needs are reassessed, in consultation with the pupil's parents.

## 13. Considering suspensions and exclusions

- 13.1. The local governing board panel will consider any representations made by parents regarding suspensions and exclusions in line with national guidance.
- 13.2. A Local Governing Board (LGB) panel will consider any representations made by parents regarding suspensions and exclusions. If the LGB's availability could potentially delay adherence to the required timelines, additional representation to make up the panel can be drawn from Governance and Trustees within TGT. Ideally, the majority of the panel will be from the specific school LGB although this may not always be practical.
- 13.3. Parents and, where requested, a friend or representative, the headteacher, and a member of the LA will be invited to attend any consideration of suspensions and exclusions and will be able to make representations.
- 13.4. Any meeting to consider reinstatement of a pupil will be arranged at a date and time convenient for all parties, and in compliance with any statutory time limits. Parents, and excluded pupils if they are over 18, will also be able to request that the meeting is held via remote access.
- 13.5. 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.
- 13.6. The local governing board will consider the reinstatement of a suspended or excluded pupil, where:
  - 13.6.1. The exclusion is permanent.
  - 13.6.2. The suspension is fixed-period, and would bring the pupil's total number of suspended school days to more than 15 in any given term.
  - 13.6.3. The suspension or exclusion would result in the pupil missing a public examination.
- 13.7. In the case of a suspension where the pupil's total number of suspended days is more than 5 but less than 16 school days (this includes suspensions that exceed 15 school days by less than a whole day, e.g. one that totals 15.5 days) within a term, if parents make representations, the local governing board will consider suspensions within 50 school days of receiving the notice of suspension. In the absence of any representations from parents, the local governing board will consider the reinstatement on their own.
- 13.8. Where a suspension will take a pupil's total number of school days out of school above five but less than 15 for the term, and parents have not requested a local governing board meeting, the local governing board will not be required to consider the pupil's reinstatement but it will have the power to do so if it deems it appropriate.



- 13.9. Where a suspension will not bring a pupil's total number of days of suspension or permanent exclusion to more than five days in a term, the local governing board will consider all representations made by parents; however, the board cannot direct the reinstatement of the pupil and it is not required to arrange a meeting with parents.
- 13.10. Where suspension or exclusion would result in a pupil missing a public examination, the local governing board will consider the suspension or exclusion before the test to decide whether the pupil should be reinstated in time to take the examination.
- 13.11. If it is not practicable for a sufficient number of governors to consider the decision before the examination, a smaller sub-committee will consider the suspension or exclusion and decide whether or not to reinstate the pupil.
- 13.12. In light of the above, the local governing board will also consider whether it would be appropriate to allow the suspended or excluded pupil to enter the premises to take the examination.
- 13.13. When considering the reinstatement of a pupil, the local governing board will:
  - 13.13.1. Only discuss the suspension or exclusion with the parties present at the meeting.
  - 13.13.2. Ask for any written evidence prior to the meeting.
  - 13.13.3. Circulate any written evidence and information to all parties, at least five school days in advance of the meeting.
  - 13.13.4. Allow pupils and parents to be accompanied by a person of their choice to the meeting.
  - 13.13.5. Consider what reasonable adjustments need to be made to support the attendance and contribution of parties at the meeting.
  - 13.13.6. Identify the steps needed to enable and encourage the suspended or excluded pupil to attend the meeting and speak on their behalf, or how they may contribute personal views by other means if attendance is not possible.
  - 13.13.7. Consider the interests and circumstances of the pupil, including the grounds for suspension or exclusion.

## 14. Reaching a decision

- 14.1. After considering suspensions and exclusions, the local governing board will either:
- 14.2. Decline to reinstate the pupil.
- 14.3. Direct the reinstatement of the pupil immediately, or on a specified date.
- 14.4. 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 local governing board will still consider whether the pupil should be officially reinstated, and whether the headteacher's decision to suspend or exclude the pupil was fair, lawful and proportionate, based on the evidence presented.

- 14.5. The local governing board will apply the civil standard of proof when responding to the acts relating to a suspension or exclusion, i.e. that on the 'balance of probabilities' it is more likely than not that the facts are true.
- 14.6. To reach a decision, the local governing board will:
  - 14.6.1. Identify the steps they intend to take to ensure that all parties involved will have the opportunity to participate and present their views.
  - 14.6.2. Ensure that minutes are taken of the meeting as a record of the evidence that was considered.
  - 14.6.3. Ask all parties to withdraw from the meeting before concluding their decision.
  - 14.6.4. Consider whether the suspension or exclusion of the pupil was lawful, proportionate and fair, taking into account the headteacher's legal duties and any evidence that was presented to the local governing board in relation to the decision.
  - 14.6.5. Record the outcome of the decision on the pupil's educational records, along with copies, which will be kept for at least six months.
- 14.7. Consider informing the LA of the outcome, as this is not statutory for academies
- 14.8. Make a note of their findings, where they have considered a suspension or exclusion but cannot reinstate the pupil.

## **15. Notification of considered suspensions and exclusions**

- 15.1. The local governing board will notify the parents of the suspended or excluded pupil, the headteacher, and the LA of their decision following the consideration of a suspension or exclusion, in writing and without delay.
- 15.2. In the case of exclusion, where the local governing board decides not to reinstate the pupil, they will notify the parents:
  - 15.2.1. That the exclusion is permanent.
  - 15.2.2. Of their right for it to be reviewed by an independent review panel.
  - 15.2.3. Of the date by which an application for review must be made.
  - 15.2.4. Of the name and address of whom the review application should be submitted to.

- 15.2.5. That a request to hold the meeting via remote access can be made and how to do this.
  - 15.2.6. 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.
  - 15.2.7. That, regardless of whether a pupil has been identified as having SEND, the parents have a right to require the local governing board to ensure a SEND expert attends the review.
  - 15.2.8. Of the role of the SEND expert that will attend the review, and that the parents will not be charged for this.
  - 15.2.9. That they are required to make it clear if they wish for a SEND expert to attend the review.
  - 15.2.10. That they may appoint someone at their own expense to make representations to the panel.
- 15.3. The local governing board will also notify parents that, if they believe a suspension or exclusion has been issued as a result of discrimination, then they are required to make a claim under the Equality Act 2010 to the First-tier Tribunal (SEND), and that this should be within six months of when the discrimination allegedly took place.
- 15.4. After any conclusion, the local governing board will notify the parents, and all other parties involved, of the decision that was made and the reasoning for this, in sufficient detail.

## **16. Removing excluded pupils from the school register**

- 16.1. The headteacher will remove pupils from the school register if:
- 16.1.1. 15 school days have passed since the parents were notified of the local governing board's decision not to reinstate the pupil and no application for an independent panel review has been received.
  - 16.1.2. The parents have stated in writing that they will not be applying for an independent panel review following an exclusion.
  - 16.1.3. If an application for an independent panel review has been made within 15 school days, the headteacher will wait until the review has been determined, or abandoned, and until the local governing board has completed any reconsideration that the panel recommended or directed it to carry out, before removing the pupil from the school register.

- 16.2. If a pupil's name is to be removed from the register, the headteacher will make a return to the LA, which will include:
  - 16.2.1. All the particulars which were entered in the register.
  - 16.2.2. The address of any parent with whom the pupil normally resides.
  - 16.2.3. The grounds upon which the pupil's name is to be removed from the register.
- 16.3. 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.
- 16.4. 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.
- 16.5. Whilst a pupil's name remains on the admissions register, the appropriate code will be used to mark the pupil's attendance:
  - 16.5.1. Code B: Education off-site
  - 16.5.2. Code D: Dual registration
  - 16.5.3. Code E: Absent and not attending alternative provision

## **17. Independent review panel**

- 17.1. Trustees will review the local local governing board's decision not to reinstate an excluded pupil if the parents submit their application for this within the required time frame.
- 17.2. Following this, all legislative guidance correct at the time will be followed.

## **18. Criminal investigations**

- 18.1. The headteacher will not postpone taking a decision to suspend or exclude a pupil due to a police investigation being underway, or any criminal proceedings that are in place.
- 18.2. Particular consideration will be given by the headteacher when deciding to suspend or exclude a pupil where evidence is limited by a police investigation, to ensure that any decision made is fair and reasonable.
- 18.3. If the local governing board is required to consider the headteacher's decision in these circumstances, they will not postpone the meeting and will make a decision based on the evidence available.