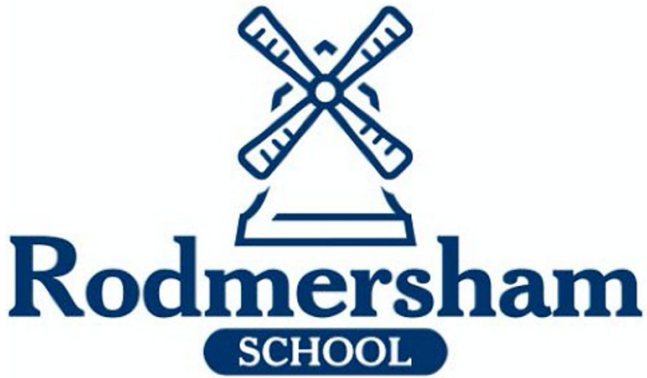


Rodmersham School Exclusion Policy



To be reviewed September 2024

Aims

The specific aims of the Exclusion Policy are:

- To ensure that we have a shared understanding of what circumstances could or will result in exclusion
- To ensure that practices and processes for exclusion are clear, just and fair
- To ensure that practices and processes are consistently, insistently and persistently applied

Exclusion

Exclusion does not fit well with our spirit of forgiveness, second chances and restoring broken relationships, however, sometimes, our duty to all of our community outweighs the needs of an individual. Where students are 'at risk' of exclusion, we will explore all possibilities before considering exclusion. There are, however, circumstances which will result in an immediate fixed-term exclusion. A permanent exclusion is very rare and will usually be made after all reasonable interventions have been exhausted. There are also exceptional circumstances which could result in immediate permanent exclusion. We will ensure that all exclusions are lawful, rational, reasonable, fair and proportionate.

This policy has due regard to the related statutory legislation including, but not limited to, the following:

- The Education Act 2002
- The School Discipline (Student Exclusions and Reviews) (England) Regulations 2012
- The Education and Inspections Act 2006
- The Education Act 1996
- The Education (Provision of Full-Time Education for Excluded Students) (England) Regulations 2007
- The European Convention on Human Rights (ECHR)
- The Equality Act 2010

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

- DfE (2017) 'Exclusion from maintained schools, academies and student referral units in England'
- DfE (2016) 'Behaviour and discipline in schools'
- DfE (2015) 'Special educational needs and disability code of practice: 0 to 25 years'
- DfE (2018) 'Mental health and behaviour in schools'

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

- Behaviour for learning Policy
- Anti-Bullying Policy
- Student Commitment (Code of Conduct)
- Acceptable Use Agreement (for ICT)
- Special Educational Needs and Disability (SEND) Policy
- Safeguarding Policy

How are you?The head teacher’s power to exclude: A guide to the law *(quoted directly from DfE (2017) ‘Exclusion from maintained schools, academies and student referral units in England’)*

1. Only the head teacher can exclude a student, and this must be done on disciplinary grounds.
2. A student may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or permanently.
3. A fixed-period exclusion does not have to be for a continuous period.
4. A fixed-period exclusion can also be for parts of the school day. For example, if a student has disruptive behaviour at lunchtime, they may be excluded from the school premises for the duration of the lunchtime period.
5. The legal requirements relating to exclusion, such as the head teacher’s duty to notify parents, apply in all cases.
6. Lunchtime exclusions are counted as half a school day for statistical purposes and in determining whether a governing body meeting is triggered.
7. The law does not allow for extending a fixed-period exclusion or ‘converting’ a fixed-period exclusion into a permanent exclusion. In exceptional cases, usually where further evidence has come to light, a further fixed-period exclusion may be issued to begin immediately after the first period ends; or a permanent exclusion may be issued to begin immediately after the end of the fixed period.
8. The behaviour of a student outside school can be considered grounds for an exclusion.
9. The head teacher may withdraw an exclusion that has not been reviewed by the Governing body.
10. Any decision of a school, including exclusion, must be made in line with the principles of administrative law, i.e. that it is: lawful (with respect to the legislation relating directly to exclusions and a school’s wider legal duties, including the European Convention on Human Rights and the Equality Act 2010); rational; reasonable; fair; and proportionate.
11. The head teacher must take account of their legal duty of care when sending a student home following an exclusion.
12. When establishing the facts in relation to an exclusion decision the head teacher must apply the civil standard of proof; i.e. ‘on the balance of probabilities’ it is more likely than not that a fact is true, rather than the criminal standard of ‘beyond reasonable doubt.’ This means that the head teacher should accept that something happened if it is more likely that it happened than that it did not happen.
13. Under the Equality Act 2010 (the Equality Act), Holywell School will (and must) not discriminate against, harass or victimise students because of: sex; race; disability; religion or belief; sexual orientation; pregnancy/maternity; or gender reassignment. For disabled children, this includes a duty to make reasonable adjustments to policies and practices and the provision of auxiliary aids.
14. In carrying out their functions, the public sector equality duty means Holywell School must also have due regard to the need to:
 - eliminate discrimination, harassment, victimisation, and other conduct that is prohibited by the Equality Act;
 - advance equality of opportunity between people who share a protected characteristic and people who do not; and
 - foster good relations between people who share a protected characteristic

and people who do not share it.

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- These duties need to be complied with when deciding whether to exclude a student.
15. Rodmersham School will (and must) also ensure that their policies and practices do not discriminate against students by unfairly increasing their risk of exclusion. Provisions within the Equality Act allow schools to take positive action to deal with particular disadvantages, needs, or low participation affecting one group, where this can be shown to be a proportionate way of dealing with such issues.
 16. The head teacher and governing body must comply with their statutory duties in relation to SEND when administering the exclusion process. This includes having regard to the SEND Code of Practice.
 17. It is unlawful to exclude for a non-disciplinary reason. For example, it would be unlawful to exclude a student simply because they have additional needs or a disability that the school feels it is unable to meet, or for a reason such as: academic attainment/ability; the action of a student's parents; or the failure of a student to meet specific conditions before they are reinstated, such as to attend a reintegration meeting. However, a student who repeatedly disobeys their teachers' academic instructions could be subject to exclusion.
 18. 'Informal' or 'unofficial' exclusions, such as sending a student home 'to cool off', are unlawful, regardless of whether they occur with the agreement of parents or carers. The only reasons for students not to be 'in school' are if they are excluded, if they are attending alternative education, if they have been given permission to not attend school under an attendance authorized code or if they are absent on medical grounds.
 19. Any exclusion of a student, even for short periods of time, must be formally recorded.
 20. Students at Rodmersham School can transfer to another school as part of a 'managed move' where this occurs with the consent of the parties involved, including the parents and the admission authority of the school. However, the threat of exclusion will (and must) never be used to influence parents to remove their child from the school.

Types of exclusion

There are three main types of exclusion:

- Internal exclusion
- Fixed-period exclusion
- Permanent exclusion

Internal exclusion

This is used as a pre-emptive strategy and may be considered in the following circumstances:

- For repeated low-level disruption that has reached an unacceptable level (e.g.. accumulation of 8 Behaviour Points)
- For high-level disruption, unintentional harm to others – as detailed in our Behaviour for Learning Policy as 'C3 behaviour'.
- Where external exclusion would put the student at risk (NB. In such circumstances, this may still be recorded as a fixed-term exclusion and advice from other agencies will be sought).

Fixed-period exclusion

A fixed period exclusion is where a student is temporarily removed from school. A student

may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year).

Individual, fixed-period exclusions will be for the shortest time necessary – usually 1 day. We believe that exclusions of more than a day or two make it more difficult for the student to reintegrate into the school afterwards. Ofsted inspection evidence suggests that 1-3 days for fixed-period exclusions are often long enough to secure the benefits of exclusion without adverse educational consequences. If a student has been excluded for a fixed period, we are obliged to set and mark work for the first 5 school days.

Where it is clear that fixed period exclusions are not being effective in deterring poor behaviour, for example if they are being repeatedly imposed on a student in response to the same behaviour, alternative strategies for addressing that behaviour will be considered

If a student has a total of 15 days of fixed-period exclusions in any one term, a Governors' Review Panel will be actioned.

A fixed-period exclusion does not have to be for a continuous period.

A fixed-period exclusion can also be for parts of the school day. For example, if a student's behaviour at lunchtime is disruptive, they may be excluded from the school premises for the duration of the lunchtime period.

For a fixed-period exclusion of more than five school days, the governing body will arrange suitable full-time education for any student of compulsory school age. This provision must begin no later than the sixth school day of the exclusion. Where a child receives consecutive fixed-period exclusions, these are regarded as a cumulative period of exclusion for the purposes of this duty. This means that if a child has more than five consecutive school days of exclusion, then education must be arranged for the sixth school day of exclusion, regardless of whether this is as a result of one fixed-period or more than one fixed-period exclusion.

Permanent exclusion

Permanent exclusion means the student is expelled from school. The local council must arrange full-time education from the sixth school day.

A permanent exclusion is very rare and involves the student being removed from the school roll and not being allowed to return to the school. A permanent exclusion will usually be made after all reasonable interventions have been exhausted. There are also exceptional circumstances which could result in immediate permanent exclusion.

Students can be permanently excluded following a fixed-period exclusion, where further evidence is presented.

Student's opportunity to participate in exclusion procedures

The student's participation in decisions related to their exclusion is not set out in primary legislation or regulations. Nevertheless, at Rodmersham, we invite and encourage the student to state their case at all stages of the exclusion process, where appropriate and at a suitable time, also taking account of their age and understanding. We use our internal 4W's reflection sheet to enable students to think about their actions, the impact on others, restorative actions and any support to ensure good behaviour moving forward. See Appendix B

Grounds for exclusion

The decision to exclude a student will always be on disciplinary grounds. A fixed term exclusion will be in response to instances of high-level breaches of our values and behaviour expectations which:

- result in a serious disruption to learning
- pose a threat to the health and safety of others
- involve actions where the perpetrator demonstrates clear intent to harm or hurt to people or school property
- involve actions beyond the authority of the school

Examples of high-level breaches of our values and behaviour expectations include:

- Physical assault (student / teacher) with intent
- Verbal abuse (student / teacher) with intent
- Bullying (including repeated verbal intimidation)
- Racist abuse
- Abuse against sexual orientation and/or gender identity
- Abuse relating to disability
- Sexual misconduct
- Drug or alcohol related
- Damage

- Theft
- Persistent disruptive behaviour
- Inappropriate use of online technology or social media
- Use or threat of use of offensive weapon or prohibited item
- Non-compliance with senior members of staff
- Serious safety issue e.g. running off site and necessitating police intervention
- Wilful and repeated transgression of protective measures in place to protect public health

A decision to exclude a student permanently is a serious one and will only be taken when we have exhausted all available strategies and as a last resort. It will usually be the final step in a process for dealing with disciplinary offences following a wide range of preemptive * and/or other strategies that have been tried without success.

There are, however, exceptional circumstances where, in the head teacher's judgment, it is appropriate to permanently exclude a child for a first or 'one off' offence. These include:

- A. serious actual or threatened violence against another student or a member of staff;
- B. sexual abuse or assault;
- C. supplying and/or using an illegal drug on the school site;
- D. carrying an offensive weapon (with intent to harm);
- E. any act which seriously puts at risk the health and safety of anyone in school.

* Pre-emptive strategies may include the following:

- establishment of a personalised Behaviour Plan to help the student better manage their behaviour. A Behaviour Plan will normally involve a number of interventions. It is particularly appropriate for those students whose behaviour is deteriorating rapidly and will involve a fortnightly review meeting with parents;
- curriculum alternatives;
- temporary placement in an in-school Learning Support Unit as part of a planned positive programme for students;
- temporary or part-time placement in a Student Referral Unit or with a voluntary / private sector alternative provider, where the student can receive educational provision intended to improve their behaviour;
- consideration by the Special Educational Needs and Disabilities Co-ordinator (SENDCo), with colleagues, of possible interventions within the school;
- assessment of special educational needs, including possible placement in a special school;
- allocation of a key worker such as a Learning Mentor, Education Welfare Officer or member of a Behaviour and Education Support Team;
- referral to a specific support service, such as the Education Welfare Service, Children's Services or the Child and Adolescent Mental Health Service.
- medical referral
- internal exclusion
- managed move
- involvement of the Local Authority (LA) Inclusion Officer.

The decision to exclude is for the head teacher to take. Where practical and possible, an investigation will take place and all parties directly involved (including the student at risk of exclusion) will be given an opportunity to present their case before taking the decision to exclude.

Whilst an exclusion may still be an appropriate sanction, the head teacher will take account of any contributing factors that are identified after an incident of poor behaviour has

occurred. For example, where it becomes known that the student has suffered bereavement has mental health issues or has been subject to bullying.

Early intervention to address underlying causes of disruptive behaviour should include an assessment of whether appropriate provision is in place to support any SEN or disability that a student may have. The head teacher should also consider the use of a multi-agency assessment for a student who demonstrates persistent disruptive behaviour. Such assessments may pick up unidentified SEN but the scope of the assessment could go further, for example, by seeking to identify mental health or family problems.

Drug-related exclusions

Illegal and other unauthorised drugs have no place within our school. Where the misuse of authorised drugs is concerned, the head teacher/teachers in charge will conduct a careful investigation to judge the nature and seriousness of each incident before deciding what action to take. Factors to consider in determining an appropriate response to a drug-related incident are set out in the Department's guidance

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/270169/drug_advice_for_schools.pdf

Recording procedures

In every instance where a student is excluded, the head teacher will formally record and specify the length of the exclusion (for reporting purposes this should be recorded as a half day, whole day or lunchtime). The head teacher will ensure that:

- they are meeting their legal duty of care towards students, and that parents are formally notified of the exclusion;
- child protection issues are taken into account e.g. bearing in mind the child's age and vulnerability, that a parent/carer is at home and the child is not placed at risk by, for example, being left to wander the streets; and
- that work is sent home or alternative provision is arranged.

Procedures following a fixed-period exclusion

Whenever the head teacher excludes a student, parents will, without delay, be notified of the period of the exclusion and the reason(s) for it. The following information will also be provided in writing:

- the reason(s) for the exclusion;
- the period of a fixed-period exclusion;
- parents' right to make representations about the exclusion to the governing body (in line with the requirements set out in paragraphs 52 to 60) and how the student may be involved in this;
- how any representations should be made; and where there is a legal requirement for the governing body to consider the exclusion, that parents have a right to attend a meeting, to be represented at that meeting (at their own expense) and to bring a friend.

Written notification of the information mentioned in the above paragraph can be provided by delivering it directly to the parents, leaving it at their usual or last known home address, or posting it to that address. Notices can be given electronically.

Where an excluded student is of compulsory school age the head teacher must also notify the student's parents of the days on which they must ensure that the student is not present in a public place at any time during school hours. These days would be the first five school days of an exclusion (or until the start date of any alternative provision or the end of the exclusion where this is earlier). Any parent who fails to comply with this duty without reasonable justification commits an offence and may be given a fixed penalty notice or be prosecuted. The head teacher must notify the parents of the days on which their duty applies without delay and, at the latest, by the end of the first lesson of the afternoon.

As a school, we are obliged to provide education during a fixed period exclusion. Parents are not responsible for making educational provision for their excluded child, but are expected to cooperate with schools in this regard. Where a student is given a fixed period exclusion of a duration of six school days or longer, the school has a duty to arrange suitable full-time educational provision from and including the sixth school day of the exclusion: this does not apply to students of non-compulsory school age.

During this period the school will set work for the student to complete and arrange for it to be marked. We will also explain how the time might be used to address the student's problems; and what support will best help with the student's reintegration into the school at the end of the exclusion. This will usually include arrangements for a reintegration interview with a parent of the student. The head teacher will usually arrange a reintegration interview with parents during or following the expiry of any internal or fixed period exclusion. The student should normally attend all or part of the interview. The interview should be conducted by the head teacher/teacher in charge or a senior member of staff. In some circumstances it may be helpful for another person to be present such as the designated teacher or governor for Looked After Children or children with SEND.

The purpose of the reintegration interview is to assist the reintegration of the student and promote the improvement of his or her behaviour. It provides an opportunity to:

- a. emphasise the importance of parents working with the school to take joint responsibility for their child's behaviour;
- b. discuss how behaviour problems can be addressed;
- c. explore wider issues and any circumstances that may be affecting the child's behaviour;
- d. reach agreement on how the child's education should continue, how best they can be reintegrated and what measures could be put in place to prevent further misbehaviour; and
- e. create a useful forum to consider with parents the possibility of a parenting contract.

The interview must be held during the period beginning with the first school day to which the exclusion relates and ending with the fifteenth school day following the day on which the student returns to school. The head teacher/teacher in charge must try to arrange the interview for a date and time that is convenient to the parent. If possible, the interview should be held on the day the student returns to school. The interview date suggested by the head teacher/teacher in charge should be a school day, but the interview can be held on a non-school day if the head teacher/teacher in charge and parent agree. At least one of the child's parents is expected to attend the meeting. A parent's failure to attend will be one factor taken into account by a magistrates' court when deciding whether to impose a parenting order, if at any future date a parenting order has been applied for by the school or local authority. Schools must keep records of the failure to attend a reintegration interview, and of any explanation given by the parent for failure to attend, as the court may need to see them. However, a fixed period exclusion must not be extended if such an interview cannot be arranged in time or the parents do not attend. The interview must be conducted on school premises. The notice relating to a reintegration interview can be combined with the notice informing the parent of the exclusion or relating to the alternative educational provision that the student must attend whilst excluded (see the Education (Reintegration Interview) (England) Regulations 2007). The notice must be given no later than six school days before the date of the reintegration interview.

There may be circumstances in which a reintegration meeting is not appropriate and, in such circumstances, agreements and expectations of the student on return to school will be put in place before they return.

Parental co-operation

If a parent does not comply with an exclusion, for example by sending the excluded child to school, or by refusing to collect, or arrange collection of, him or her, including at lunchtime, as a school, we will have due regard for the student's safety in deciding what action to take. An exclusion should not be enforced if doing so may put the safety of the student at risk. If efforts to resolve the issue with the parents are unsuccessful the school will consider whether to contact the Education Welfare Service and seek the advice of the local authority. In some circumstances, police or community support officers could become involved. Where there is a persistent lack of parental co-operation and this is affecting the child's behaviour, the school or local authority may consider applying for a parenting order.

Procedures for review and appeal

The head teacher must notify the governing body of any exclusion. The governing body/management committee must decide whether or not to reinstate the student, if appropriate, or whether the head teacher's/teacher in charge's decision to exclude the student was justified/appropriate. The governing body or management committee (for PRUs) can delegate the function of reviewing exclusions to a committee consisting of at least three governors/members, which may be called the Discipline Committee.

The decision to permanently exclude

A decision to exclude a student **permanently** is a serious one and will only be taken when we have exhausted all available strategies and as a last resort. It will usually be the final step in a process for dealing with disciplinary offences following a wide range of other strategies that have been tried without success.

There are, however, exceptional circumstances where, in the head teacher's judgment, it is appropriate to permanently exclude a child for a first or 'one off' offence. These include:

- a) *serious* actual or threatened violence against another student or a member of staff;
- b) sexual abuse or assault;
- c) supplying and/or using an illegal drug on the school site;
- d) carrying an offensive weapon (with intent to harm);
- e) or any act which seriously puts at risk the health and safety of anyone in school.

NB. School staff can **search** for the following without consent:

- Knives and weapons
- Alcohol
- Illegal drugs
- Stolen items
- Tobacco and cigarette papers
- Fireworks
- Pornographic images.

See Appendix A for Search guidelines.

Procedures following permanent exclusion

In the case of a permanent exclusion the student remains on the roll of the school until any appeal is determined; until the time limit for the parents to lodge an appeal has expired without an appeal being brought; or the parent has informed the LA in writing that no appeal is to be brought. During the first five school days of a permanent exclusion the school will send work home for the student to complete. During these initial five school days of exclusion parents must ensure that their child is not present in a public place during school hours without reasonable justification.

During the first five days of a permanent exclusion the LA should arrange to assess the student's needs and how to meet them including any special educational needs the student may have. The LA should also arrange a meeting with the parents to discuss options within the first week of the exclusion. From the sixth school day of a permanent exclusion, the LA is statutorily responsible for ensuring that suitable full-time education is provided to students of compulsory school age. This will be the student's home LA in cases where the school is maintained by a different LA. Local authorities are no longer expected to provide full-time education from the first day for every student permanently excluded from a school that was in the Behaviour Improvement Programme. However, because they continue to benefit from additional resources they are strongly encouraged to make provision for vulnerable students as quickly as possible and must make provision for every student no later than the sixth school day. Such provision does not have to be made for students in the final year of compulsory education who have already taken (or missed) their public examinations. For a student with an Education and Health Care Plan (EHCP), suitable full-time provision must be appropriate to their special educational needs as set out in the EHCP.

If the school or LA considers that parenting is a factor in the behaviour of the student who has been excluded, they should consider whether it may be appropriate to offer a parenting contract or apply to the magistrates' court for a parenting order. Schools and LAs can also do this before the student's behaviour deteriorates to the point where exclusion is the only appropriate response. In accordance with the law on admissions, a school may not require a parent to sign a parenting contract as a condition of their child being admitted following permanent exclusion.

The head teacher's duty to inform the governing body and the local authority about an exclusion

The head teacher must, without delay, notify the governing body and the local authority of:

- any permanent exclusion (including where a fixed-period exclusion is followed by a decision to permanently exclude the student);
- any exclusion which would result in the student being excluded for a total of more than five school days (or more than ten lunchtimes) in a term; and
- any exclusion which would result in the student missing a public examination or national curriculum test.

The head teacher must also notify the local authority and governing body once per term of any other exclusions not already notified. Notifications must include the reason(s) for the exclusion and the duration of any fixed-period exclusion.

In addition, within 14 days of a request, a governing body must provide to the Secretary of State and (in the case of maintained schools and PRUs) the local authority, information about any exclusions within the last 12 months. For a permanent exclusion, if the student lives outside the local authority area in which the school is located, the head teacher must also notify the student's 'home authority' of the exclusion and the reason(s) for it without delay.

Considering exclusions

The governing body will consider any representations made by parents in regard to exclusions.

Parents and, where requested, a friend or representative, the head teacher and a member of the LA will be invited to attend any consideration of exclusions and will be able to make representations.

Any meeting to consider reinstatement of a student will be arranged at a date and time convenient for all parties, and in compliance with any statutory time limits.

The governing body will consider the reinstatement of an excluded student, where:

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

In the case of a fixed-period exclusion where the student's total number of excluded days is more than five but less than 15 school days within a term, if requested by the parents, the governing body will consider exclusions within 50 school days of receiving notification.

In the case of a fixed period exclusion, where the student's total number of excluded school days does not amount to more than five, in the absence of any such representations, the governing body is not required to meet and cannot direct the reinstatement of the student.

Where exclusion would result in a student missing a public examination, the governing body will consider the exclusion before the test to decide whether the student should be reinstated in time to take the examination.

If it is not practicable for a sufficient number of governors to consider the decision before the examination, a smaller sub-committee will consider the exclusion and decide whether or not to reinstate the student.

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

When considering the reinstatement of an excluded student, the governing body will:

- Only discuss the exclusion with the parties present at the meeting.
- Ask for any written evidence prior to the meeting.
- Circulate any written evidence and information to all parties, at least five school days in advance of the meeting.
- Allow students and parents to be accompanied by a person of their choice at the meeting.
- Consider what reasonable adjustments need to be made to support the attendance and contribution of parties at the meeting.
- Identify the steps needed to enable and encourage the excluded student to attend the meeting and speak on their behalf, or how they may contribute personal views by other means if attendance is not possible.
- Consider the interests and circumstances of the excluded student, including the grounds for exclusion.

Reaching a decision

After considering exclusions, the governing body will either:

- Decline to reinstate the student.
- Direct the reinstatement of the student immediately, or on a specified date.

If reinstatement would make no practical difference, e.g. if the student has already returned to school following a fixed-period exclusion or the parents make clear they do not want their child reinstated, the governing body will still consider whether the student should be officially

reinstated, and whether the head teacher's decision to exclude the student was fair, lawful and proportionate, based on the evidence presented.

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

To reach a decision, the governing body will:

- Identify the steps they intend to take to ensure that all parties involved will have the opportunity to participate and present their views.
- Ensure that minutes are taken of the meeting as a record of the evidence that was considered.
- Ask all parties to withdraw from the meeting before concluding their decision.
- Consider whether the exclusion of the student was lawful, proportionate and fair, taking into account the head teacher's legal duties and any evidence that was presented to the governing body in relation to the decision to exclude.
- Record the outcome of the decision on the student's educational records, along with copies, which will be kept for at least six months.
- Make a note of their findings, where they have considered an exclusion but cannot reinstate the student.

Notification of considered exclusions

The governing body will notify the parents of the excluded student, the head teacher and the LA of their decision following the consideration of an exclusion, in writing and without delay.

In the case of a permanent exclusion, where the governing body decides not to reinstate the student, they will notify the parents:

- That it is permanent, and their right for it to be reviewed by an independent review panel.
- Of the date by which an application for review must be made.
- Of the name and address of whom the review application should be submitted to.
- That any application should set out the grounds on which it is being made and that, where appropriate, this should include reference to how a student's SEND is considered relevant to the exclusion.
- That, regardless of whether a student has been identified as having SEND, the parents have a right to require the governing body to ensure a SEND expert attends the review.
- Of the role of the SEND expert that will attend the review, and that the parents will not be charged for this.
- That they are required to make it clear if they wish for a SEND expert to attend the review.
- That they may appoint someone at their own expense to make representations to the panel.

The governing body will also notify parents that, if they believe an exclusion has been issued as a result of discrimination, then they are required to make a claim under the Equality Act 2010 to the First-tier Tribunal (SEND), and that this should be within six months of when the discrimination allegedly took place.

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

Removing permanently excluded students from the school register

The head teacher will remove students from the school register if:

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

If an application for an independent panel review has been made within 15 school days, the head teacher will wait until the review has been determined, or abandoned, and until the governing body has completed any reconsideration that the panel recommended or directed it to carry out, before removing the student from the school register.

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

- All the particulars which were entered in the register.
- The address of any parent with whom the student normally resides.
- The grounds upon which the student's name is to be removed from the register.

Any return to the LA will be made as soon as the grounds for removal are met and no later than the date in which the student's name was removed.

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

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

- Code B: Education off-site
- Code D: Dual registration
- Code E: Absent and not attending alternative provision

Independent review panel

The LA will review the governing body's decision not to reinstate a permanently excluded student, if the parents submit their application for this within the required time frame.

The LA will constitute an independent review panel of three or five members that represent the following categories:

- A lay member to chair the panel. This individual will not have worked in any school in a paid capacity.
- A current or former school governor who has served for at least 12 consecutive months in the last five years.
- A head teacher or individual who has been a head teacher within the last five years.

Parents are required to submit their applications within:

- 15 school days of the governing body's notification of their decision.

- 15 school days of the final determination of a discriminatory claim made under the Equality Act 2010.

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

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

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

Appointing a SEND expert

If requested by parents in their application for an independent review panel, the LA will appoint a SEND expert to attend the panel and cover the associated costs of this appointment.

The LA will make arrangements to indemnify the SEND expert against any legal costs and expenses reasonably incurred as a result of any decisions or actions connected to the review and which are taken in good faith.

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

Individuals will not serve as a SEND expert if they have, or at any time have had, any connection with the LA, school, parents or student, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their ability to act impartially; however, an individual is not taken to have such a connection solely because they are an employee of the LA.

The SEND expert will be a professional with first-hand experience of the assessment and support of SEND, as well as an understanding of the legal requirements on schools in relation to SEND. Examples of suitable individuals might include educational psychologists; specialist SEND teachers; SENDCOs; and behaviour support teachers.

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

Whilst individuals are not automatically taken to be partial simply because they are an employee of, or contracted by, the LA, they will not have had any previous involvement in the assessment or support of SEND for the excluded student, or siblings of the excluded student. The LA will request that prospective SEND experts declare any conflict of interest at the earliest opportunity.

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

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

The role of a SEND expert

The SEND expert's role is analogous to an expert witness, providing (orally and/or written) impartial advice to the panel on how SEND might be relevant to the exclusion. The SEND expert will base their advice on the evidence provided to the panel. The SEND expert's role does not include making an assessment of the student's SEND.

The focus of the SEND expert's advice will be on whether the school's policies which relate to SEND, or the application of these policies in relation to the excluded student, were legal, reasonable and procedurally fair. If the SEND expert believes that this was not the case, they will, where possible, advise the panel on the possible contribution this could have made to the circumstances of the student's exclusion.

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

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

Appointing a clerk

The LA will decide whether to appoint a clerk to the independent review panel, or to make alternative arrangements to administer the panel.

Where a clerk is appointed, the LA will ensure that the clerk did not serve as clerk to the governing body when the decision was made not to reinstate the student.

The role of a clerk

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

The clerk will:

- Identify, in advance of the meeting, whether the excluded student wishes to attend the panel hearing, taking reasonable steps to enable the student to feedback their views, irrespective of their attendance.
- Identify, in advance of the meeting, whether any alleged victims of the incident(s) leading up to the exclusion wish to attend the panel hearing, taking reasonable steps to enable them to feedback their views, irrespective of their attendance.
- Ensure that the panel is able to hear from any witnesses to the incident(s) leading to the exclusion, taking into account the fact that some of these people may be students at the school (Students under 18-years-old will not be allowed to appear in person without parental consent).
- Inform the parents, head teacher, governing body and [maintained schools and PRUs only] the LA, that they are entitled to:
 - make oral and written representations to the panel;
 - attend the hearing;
 - and be represented.
- Ensure that all parties are:

- o Provided with copies of relevant papers at least five school days before the review, notifying the panel if any requested documents have not been provided in case the panel wishes to adjourn until a later date.
- o Informed about who is attending the meeting, and what their roles are.
- Attend the review and ensure that minutes are produced in accordance with instructions from the independent review panel.

Where a clerk is not appointed, the LA will undertake the functions outlined above.

The duties of independent review panel members in the conduct of a review panel

The role of the panel is to review the governing body's decision not to reinstate a permanently excluded student. In reviewing the decision, the panel will consider the interests and circumstances of the excluded student, including the circumstances in which the student was excluded, and have regard to the interests of other students and people working at the school.

The panel will apply the civil standard of proof, rather than the criminal standard of 'beyond reasonable doubt'.

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

- Uphold the decision.
- Recommend that the governing body reconsiders reinstatement.
- Quash the decision and direct that the governing body reconsiders reinstatement.

The panel's decision does not have to be unanimous and can be decided by a majority vote. It is binding on the student, parents, the governing body, head teacher and the LA.

Reconsidering reinstatement following a review

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

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

Where the independent review panel recommends that the governing body should reconsider their decision not to reinstate a student, they will do so within 10 school days of being given notice of the review panel's decision.

The school is aware that if, following a recommendation to reconsider, the governing body does not offer to reinstate the student, it will not be subject to a financial adjustment.

If, following reconsideration, the governing body offers to reinstate the student but the parents decline, no adjustment will be made to the school's budget.

Following reconsideration, the governing body will notify the parents, the head teacher and the LA of their reconsidered decision and the reasons for this.

Criminal investigations

The head teacher will not postpone taking a decision to exclude a student due to a police investigation being underway, or any criminal proceedings that are in place.

The head teacher will give particular consideration when deciding to exclude a student where evidence is limited by a police investigation, to ensure that any decision made is fair and reasonable.

If the governing body is required to consider the head teacher's decision in these circumstances, they will not postpone the meeting and will make a decision based on the evidence available.

Further details of the process for following up an exclusion are in the DfE Guidance Document: DfE (2017) 'Exclusion from maintained schools, academies and student referral units in England'.

Appendix A: Search Guidelines

NB. School staff can **search** for the following without consent:

- Knives and weapons
- Alcohol
- Illegal drugs
- Stolen items
- Tobacco and cigarette papers
- Fireworks
- Pornographic images.

Staff can **confiscate** any item, however found, that they deem harmful or detrimental to school discipline. They can also seize any prohibited item found as a result of a search.

The head teacher, or a member of school staff authorised by the head teacher, can conduct a search.

Guidelines:

- Authorised staff conducting a search must be the same sex as the student being searched.
- Authorised staff must have a witness present (staff member) and, if possible, they should also be the same sex.
- Authorised staff can carry out a search of a student of the opposite sex to them and without a witness present, but only where they reasonably believe that there is a risk that serious harm will be caused.
- A search can be conducted if staff reasonably expect that a student is in possession of a prohibited item.

We will inform parents and the police where a criminal offence may have taken place. We will consider whether or not to inform other agencies such as Youth Offending Teams or social workers.

In line with DfE guidance, where the head teacher / teacher in charge has permanently excluded a student for:

- a) one of the above offences; or
- b) persistent and defiant misbehaviour including [bullying](#) or repeated possession and/or use of an illegal [drug](#) on school premises (see further guidance on bullying at www.teachernet.gov.uk/wholeschool/behaviour/tacklingbullying/ and drug-related incidents) and where the basic facts of the case have been clearly established on the balance of probabilities

the Secretary of State would not normally expect the governing body or an Independent Appeal Panel to reinstate the student. The school will keep the Governing Body and parents informed of any permanent exclusions.

Review

This policy will be reviewed annually by SLT and the Ethos Committee of the Body of Governors. The governing body may, however, review the policy earlier than this if they receive recommendations on how the policy may be improved.

