

# Suspensions and permanent exclusions for DGAT Local Governing Boards



# Aims for this session

- The circumstances under which suspension and permanent exclusion can be used in a school.
- How to ensure suspensions and exclusions are lawful.
- The circumstances under which governing boards are required to review the decision to suspend or permanently exclude a pupil.
- How reviewing suspensions and exclusions works and the governing board's role in this.
- How independent review panels (IRPs) work and when they need to be constituted.



**OUR VISION IS  
TO ENABLE ALL  
TO FLOURISH**

## Our core principles

- We aspire to be the best we can be in an ever-changing environment - providing opportunities for all to flourish
- Within our DGAT family we cherish everyone as individuals; appreciating and celebrating diversity
- We act with integrity; we are open to challenge and we are reflective about our practice
- We treat everyone with dignity and respect
- Through collaboration, in a nurturing community, we grow, learn and achieve



# DFE Aims and Aspiration for Behaviour and living your school's vision

Creating a culture that promotes excellent behaviour requires a clear vision of what good behaviour looks like. Schools' circumstances will vary but every culture should ensure pupils can learn in a calm, safe, and supportive environment and protect them from disruption.



# DfE Aims and Aspiration for Behaviour

- Good behaviour in schools is central to a good education. Schools need to manage behaviour well so they can provide calm, safe and supportive environments which children and young people want to attend and where they can learn and thrive. Being taught how to behave well and appropriately within the context they're in is vital for all pupils to succeed personally.
- Where behaviour is poor, pupils can suffer from issues as diverse as lost learning time, child-on-child abuse, anxiety, bullying, violence, and distress. It can cause some children to stay away from school, missing vital learning time.
- Similarly, continually dealing with misbehaviour negatively affects the wellbeing of teachers and, for some, it is a reason why they leave the profession.



# Why suspend ?

- Suspensions and exclusions are **necessary behaviour management tools** in some circumstances, and local governing boards should never encourage their schools to adopt ‘no exclusions’ policies as these can prevent pupils from experiencing necessary behaviour management interventions and can put other pupils and staff at risk
- Suspensions and exclusions should only ever be used as **a last resort**.
- Research has shown that being frequently suspended or permanently excluded from school can have a negative impact on pupils’ educational outcomes and even their safety – the All-Party Parliamentary Group on Knife Crime found that there “is a strong crossover between pupils who are at risk of exclusion and those who are at risk of criminal exploitation”, and that there is a “concerning” link between exclusion and knife crime.



# Overuse of suspensions

When suspensions and exclusions are used too readily, and the proper procedures are not followed to minimise the disruption to pupils being suspended or excluded, this can:

- Unnecessarily limit pupils' educational opportunities and disrupt learning.
- Cut vulnerable pupils off from positive adult role models, which they may not have elsewhere.
- Socially isolate pupils, which can lead to mental health issues and increased vulnerability to abuse, grooming and exploitation.
- Trap pupils in unsafe home situations, e.g. where suitable, full-time, alternative education is not procured.
- Lead to vulnerable pupils becoming less visible to the authorities in place to help and protect them.



# Roles and responsibilities of LGB's

SE.8	Implement and monitor a behaviour policy.			Monitor	Monitor	Decide Deliver
SE.9	Ensure excellent behaviour for learning.			Monitor	Monitor	Decide Deliver Monitor

SE.14	Monitor exclusions.		Monitor	Monitor	Monitor	
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SE.15	Convene a panel to consider any permanent exclusion of a pupil or any number of fixed-term exclusions which exceed a total of 15 days per term.			Monitor via DCEO Consulted	Decide	
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# What should be included in a Behaviour Policy

- purpose – including the underlying objectives of the policy, and how it creates a safe environment in which all pupils can learn and reach their full potential
- How the policy will be adapted for children with SEND
- leadership and management – including the role of designated staff and leaders, any systems used, the resources allocated and engagement of local governors/trustees
- school systems and social norms – including rules, routines, and consequence systems
- staff induction, development and support – including regular training for staff on behaviour



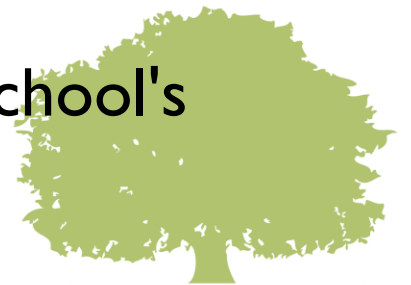
# What should be included in a Behaviour Policy

- pupil transition – including induction and re-induction into behaviour systems, rules, and routines
- pupil support – including the roles and responsibilities of designated staff and the support provided to pupils with additional needs where those needs might affect behaviour
- child-on-child abuse – including measures to prevent child-on-child abuse and the response to incidents of such abuse
- banned items – a list of items which are banned by the school and for which a search can be made.



# Key principles of the Behaviour Policy

- accessible and easily understood: clear and easily understood by pupils, staff and parents
- aligned and coherent: aligned to other key policy documents
- inclusive: consider the needs of all pupils and staff, so all members of the school community can feel safe and that they belong
- consistent and detailed: have sufficient detail to ensure meaningful and consistent implementation by all members
- supportive: address how pupils will be supported to meet high standards of behaviour
- must refer to the use of suspension and exclusion as part of the school's behaviour policy as the ultimate sanction



# Monitoring and reviewing of the Behaviour Policy

- ▶ The effectiveness and consistency of the implementation of the behaviour policy.
- ▶ The effectiveness of the interventions put in place to support pupils at risk of suspension and exclusion, and where changes need to be made to these.
- ▶ Any variations in the rolling average of permanent exclusions from term to term and year to year.
- ▶ Whether there are any significant trends in the characteristics of suspended and excluded pupils, e.g. are ethnic minority pupils or pupils with SEND excluded more?
- ▶ Where there are patterns in the timing of suspensions and permanent exclusions.



# Activity

How does your school respond to good behaviour?

How does the local governing board know and monitor this?



# Trust picture 2022-23

Number of schools	Type Suspension / PEX	Number of days	Type of offences
11 schools involved	77 Fixed term suspensions 2 PEX	Total 133.5 days	Violence and aggression and persistent disruptive behaviour towards staff and pupils. Dangerous behaviour and damage towards school property. Cyber bullying.

Is your school included in these numbers? Where does that information come to local governors from?



# Learning from 2022-23 practice across the Trust

- Inconsistent approaches and engagement with statutory documents
- Inconsistent evidence included in information packs for permanent exclusions panels
- Inconsistency in day-to-day record keeping which means panels do not have a full overview of the evidence available
- Too much detail about individual pupils in reports to local governors – this leads to governors being 'tainted' and not able to sit on panels and also may impact on data protection compliance – always adopt the 'sharing information on a need to know' basis



# What is a legal suspension

- Pupils can be suspended for parts of the school day, whole days or for a lunch period.
- Legal process must be followed - i.e. parents informed that the headteacher is suspending and the legal letter sent, including the reasons for the suspension, the length of time child is not permitted on school premises and the work that the child must complete during this time.
- Copies of the letter **must** be sent copied to GCC and CofG and DCEO
- Only the HT can legally suspend





# Suspensions and Permanent Exclusion

- Suspensions cannot be converted into permanent exclusions.
- Suspensions or a permanent exclusion may be issued to begin immediately after the end of a suspension in an exception circumstance because new evidence has come to light which exacerbates the severity of the behaviour incident.



# Things a school might consider before suspension...

## **PARENTAL ENGAGEMENT**

Communicating frequently and openly with parents about the behaviour of their children, and discussing ways to work together to improve behaviour.

## **MENTORING + COACHING**

Arranging for pupils to work with a member of staff or other professional to improve their behaviour or to address specific issues which may be contributing to poor behaviour.

## **MULTI-AGENCY SUPPORT**

Liaising and engaging with local partners and agencies to address underlying contributing factors that need more specialist support to address, e.g. mental health or anger management issues.

## **NEEDS ASSESSMENTS**

Where misbehaviour is on the part of a pupil with SEND, assessing whether provision and support offered to the pupil aligns with their needs and whether more support may be needed.

## **BEHAVIOUR PLANS**

Implementing, with the pupil, a short- or long-term behaviour plan with specific improvement targets and reviews.

## **PUPIL SUPPORT UNITS**

Arranging planned interventions occurring in small groups in place of mainstream lessons with the underlying ambition to improve behaviour and maintain learning outside of a classroom environment before reintegrating pupils back into mainstream lessons.



# Alternative Provision

- In extreme cases where a pupil need bespoke support, schools might with parental permission buy in additional placement at an Alternative Provision for a set period of time. This might be whilst a pupil is awaiting a placement at a special school.
- Pupils will be dual registered during this time and the school will be funding the placement.



# Part Time Timetables

- Schools may also choose to use part time timetables for a set period of time to support a pupils behaviour.
- This should be in agreement with parents and should be communicated to the local authority. There is a set format for doing this.
- Part time timetables are **always** set with the intention of increasing over time so that the pupil returns to full time attendance.
- Very rarely, schools use this as a mechanism to avoid permanent exclusion whilst waiting for special school placements. This is only in exceptional circumstances.



# Managed moves

- Managed moves are processes whereby a pupil is **transferred from one mainstream school to another permanently**.
- These moves must be **voluntary** and have the agreement of the school, the parents of the pupil, and the admission authority of the new school.
- This is very rare and there are significant challenges in persuading other local schools to accept pupils on this basis.
- The move is for 16 weeks on a first instance and if the pupil continues to demonstrate previous behaviours, the receiving school retains the right to terminate place and the pupil returns to home school.



# Decision to suspend or exclude

- When all other interventions are unsuccessful, it's likely going to be appropriate for the headteacher to decide to suspend the pupil or, in cases of severe misbehaviour, permanently exclude them.
- The decision to suspend or permanently exclude a pupil can **only be taken by the headteacher**.
- The decision must be **lawful, reasonable, fair and proportionate**, and the headteacher must apply the 'civil standard of proof', which means to believe that it's **more likely than not that a fact is true** on the **balance of probabilities**.



# Common reasons for suspension

## **DGAT trends**

- Persistent disruptive behaviour
- Physical and verbal abuse of staff and other pupils

## **National trends**

- Drug- and alcohol-related misconduct
- Bullying, including cyberbullying
- Damage, e.g. arson, graffiti, vandalism
- Prejudicial bullying and harassment, e.g. racist, homophobic, transphobic or ableist abuse
- Sexual misconduct, e.g. sexual harassment and sexual assault
- Theft, e.g. selling stolen property and stealing from school



# What must happen...

- When considering an exclusion, headteachers must carry out a **thorough investigation of the relevant incidents and record this in a written report.**
- They should ensure that all pupils and staff involved are given the opportunity to state their version of events.
- Local governing boards should encourage schools to **properly record the reason for a pupil's exclusion**, as this will make your delegated responsibility of **monitoring and reviewing exclusions data** much easier.





# What must happen...

- Ensuring that exclusions records are **clear and transparent** can also help you make sure that exclusions are fair and proportionate, and to identify any patterns, e.g. if there are any demographics of the pupil cohort who are excluded more often than others.
- Up to three reasons can be recorded for each suspension or permanent exclusion, and the DfE collects data on suspensions and permanent exclusions from all state-funded schools through the termly school census.



# Unlawful reasons for suspensions

What reason for suspending a pupil do you think would be unlawful?



# Unlawful reasons for suspensions

- A pupil has support needs or a disability that the school feels it's unable to meet
- Because of the pupil's academic attainment or ability
- The actions of pupil's parents
- The failure of a pupil to meet specific conditions before they are reinstated, such as failure to attend a reintegration meeting



# Which of the following do you think are an illegal suspension ?

- A pupil is sent home, with the parent's agreement, to cool off
- A pupil is asked to not come into school to ensure the safety of them and other pupils because a member of staff is not available to support.
- The headteacher authorises an absence for a pupil because their parents and the school agree it is easier to manage their behaviour at home.



# Information sharing

- As mentioned, the CoG and DCEO must be informed by the headteacher **without delay** where they have taken the decision to permanently exclude a pupil or where a suspension would result in the pupil being suspended for a total of more than five school days in a term. The CoG must also be notified right away when any suspension or permanent exclusion would **result in the pupil missing a public examination or national curriculum test**.
- The local governing board needs to be informed at least once per term via the Headteacher report to the LGB of any other suspensions that they have not been notified about at the time. It's good practice, however, for the headteacher to **inform you of all suspensions and exclusions as soon as possible**, as parents have a right to make representations to you about any suspension or exclusion concerning their child, including those that don't meet the above criteria.



# Arranging education

- Suspensions between 0.5 – 5 days must include work set by the school
- This can be remote. If a pupil has a SEND requirement scaffolds including online support from staff should be offered
- From day 6 onwards the school has a legal duty to provide a place in conjunction with the local authority at a *Alternative Provision*. This may not be full time and parents have to ensure that they can transport their child to the setting. The school will fund the cost of this placement
- For permanent exclusion the duty of arranging education falls to the excluded pupils home local authority
- For looked after pupils APS should be in place from day 1 of the suspension



# Duty to consider an exclusion

Although local governing boards do not have the right to suspend or exclude a pupil, they do have the delegated responsibility **to consider whether to uphold the headteacher's decision** to suspend or exclude **or to overrule it** in certain circumstances.

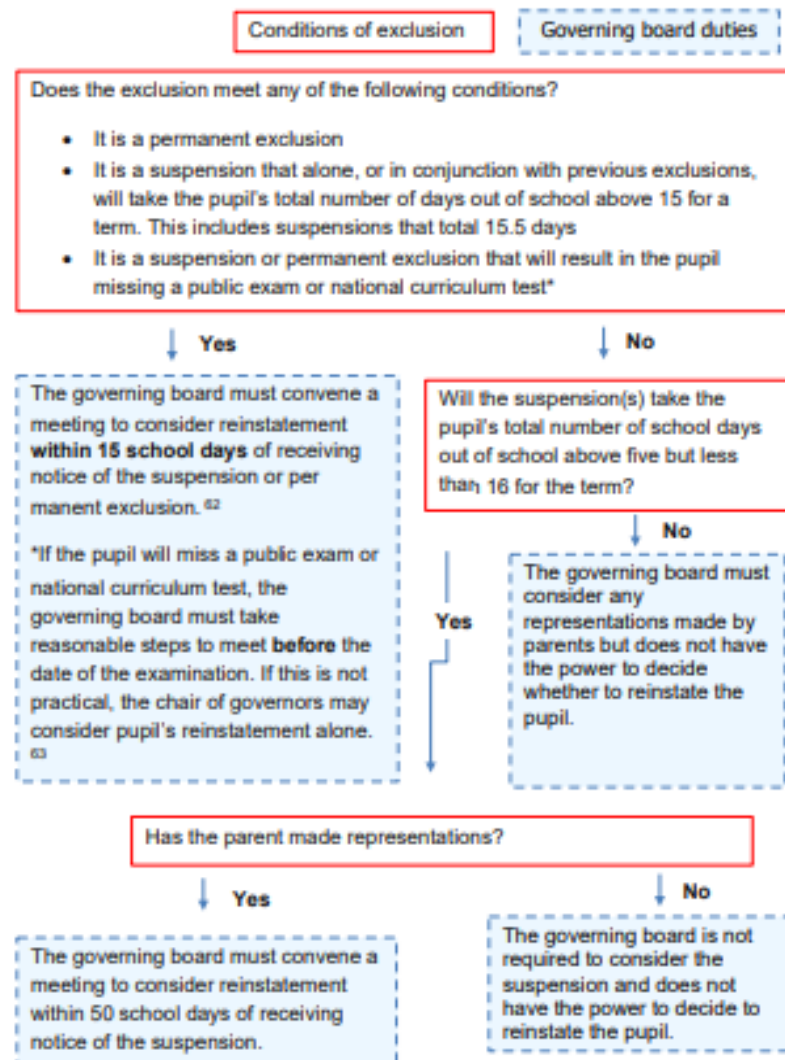
A panel of three local governors **must** consider the reinstatement of a suspended or excluded pupil **within 15 school days of receiving notice** if any of the following apply:

- The exclusion is **permanent**.
- It's a fixed-term suspension which would bring the pupil's total number of school days of exclusion to **more than 15 in a term**.
- It would result in the pupil **missing a public exam or national curriculum test**.

The requirement to consider the above types of suspension or exclusion is automatic and the review of the headteacher's decision must take place whether the parents wish to make representations or not.



## A summary of the governing board's duties to consider reinstatement<sup>61</sup>



<sup>61</sup> Parents on diagram refer to parent if the pupil is under 18 or the excluded pupil, aged 18 or over.

<sup>62</sup> The governing board may delegate its functions to consider a suspension or permanent exclusion to a designated committee.

<sup>63</sup> The ability for a chair to review in the case of public exams refers only to maintained schools.





# The review process

The process for reviewing a suspension or exclusion is as follows:

## The review process

### stage one

The governing board normally appoints a panel to consider the headteacher's decision to suspend or exclude.

### stage two

The governing board or appointed panel hosts a review meeting to consider whether to uphold the decision.

### stage three

The governing board or appointed panel makes its decision and informs the headteacher, LA and parents.

### stage four

If the headteacher's decision is upheld and parents apply for a hearing, an IRP reviews the governing board's decision.

### stage five

The governing board reconsiders its original decision within 10 school days of the IRP recommending or directing it to do so.



## Gloucestershire County Council Supplementary Guidance points and paperwork for Governors on:

*'Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement Guidance for maintained schools, academies, and pupil referral units in England, May 2023'*

Summer 2023



- Super helpful document!
- Includes template agendas and letters
- Includes checklists
- Includes a really helpful decision-making grid

Please use!



# Getting the right people in the room

The following people need to be invited to the review meeting:

- **Parents** of the pupil, and they can bring a representative or friend with them if they request it ahead of time
- **The pupil** if they are aged 18 or over, and can be invited to attend when they are under this age if it's appropriate in the circumstances
- **The headteacher**
- **A representative of the LA** in the case of a maintained school; parents can request that an LA representative attends the meeting in the case of academy trusts (although they can't make representations without the consent of the governing board)
- **The social worker** and/or **the virtual school headteacher** if this is relevant for the pupil's circumstances.



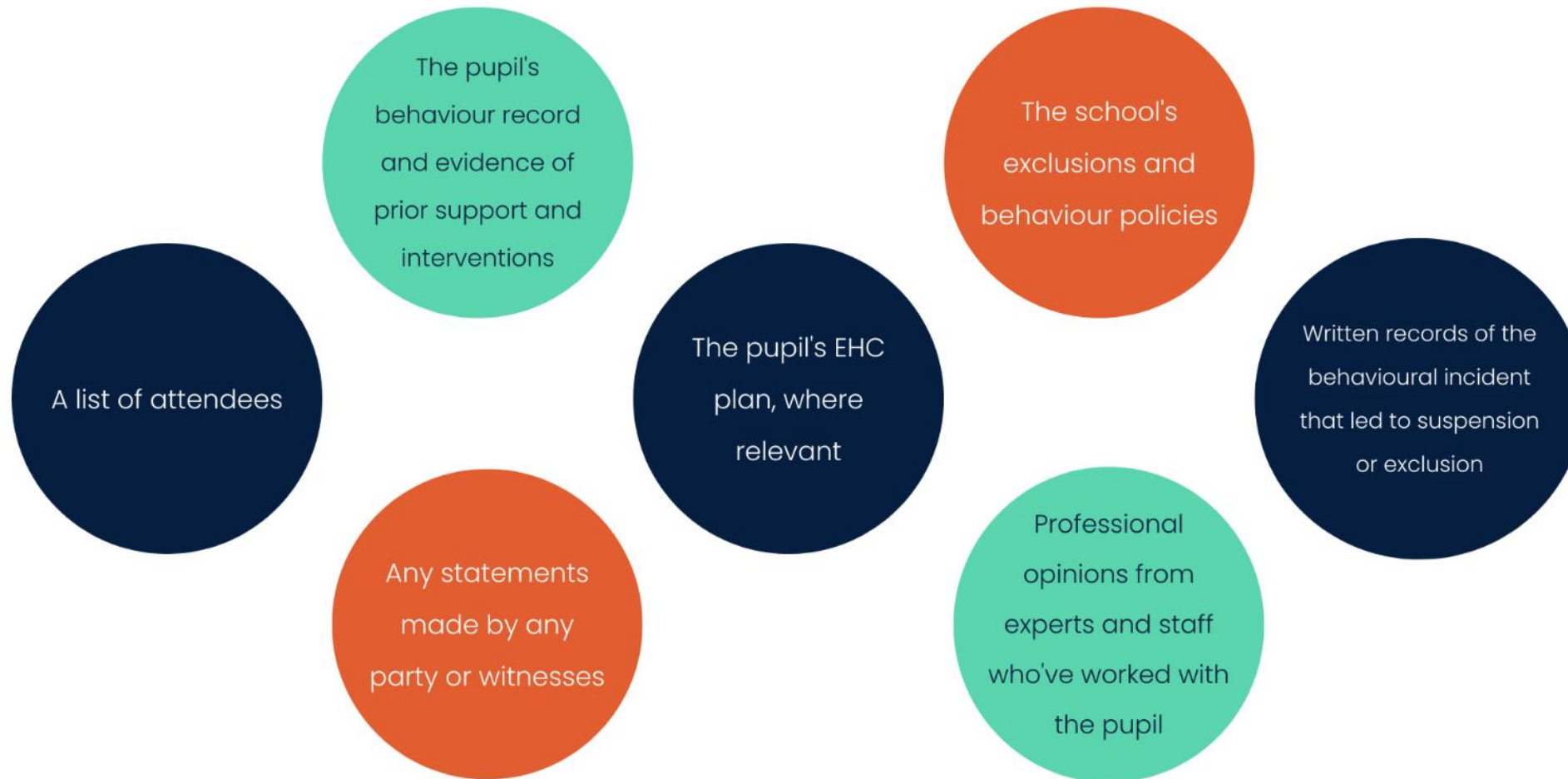
# Timings

## **Making all reasonable endeavours to hold the meeting at a time convenient for the parents and all other relevant parties**

- Parents and the pupil are not required to attend the meeting, and the meeting can technically take place without them there; however, it's not good practice to do so.
- The meeting can take place remotely, at the parent's request – not for the school's convenience.
- You need to document the reasons for any decision you make to hold a meeting without any of the relevant parties there thoroughly so you can defend that decision if challenged, e.g. if the parents apply for an IRP.
- You should also balance the need to have all relevant parties there with the need to arrange the meeting within the statutory time limits, although you should note that the decision made won't be invalid simply on the grounds that timescales weren't observed.



# Preparing for the review meeting

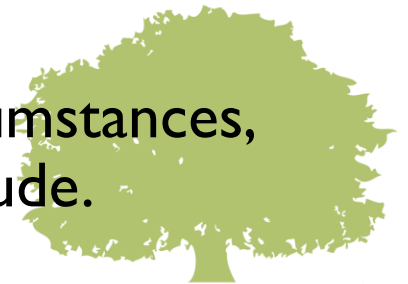


# Considering the evidence

Use the GCC decision making grid and draft agenda

The panel must consider...

- If the suspended or excluded pupil breached the behaviour policy, and how this breach met the criteria for suspension exclusion, i.e. that it was a serious breach or one of a series of persistent breaches.
- How the headteacher assured themselves in line with the civil standard of proof that the pupil breached the school's behavioural standards, e.g. whether there is evidence of, or eyewitnesses to, the behaviour.
- How allowing the pupil to remain in school would harm the education or welfare of other pupils.
- In what ways the headteacher considered the pupil's specific needs and circumstances, and took these into account, before making the decision to suspend or exclude.



# Considering the evidence

Use the GCC decision making grid and draft agenda

The panel must consider...

- The interventions and behaviour management strategies that the school implemented in an effort to support the pupil to improve their behaviour before the breach of the behaviour policy that led to their suspension or exclusion.
- What the impact of the suspension and exclusion would be on the pupil, e.g. educationally and in terms of their welfare and safety.
- Whether the pupil or their parents were engaged in or informed of any behaviour management issues and strategies, and given the opportunity to improve behaviour, before the suspension or exclusion occurred.
- Whether all the correct procedures were followed and adhered to in terms of the suspending or excluding process.



# Weighing up the judgment

- Uphold the headteacher's decision and **decline to reinstate the pupil** – this means that the suspension or permanent exclusion will continue as directed by the headteacher, unless the parents appeal the decision.
- Overturn the headteacher's decision and **direct the school to reinstate the pupil** – this can either be immediately, i.e. from the next school day, or on a particular date.

## Please note!

Even if the suspension period is over and the pupil has already returned to school, governing boards still need to make a decision on whether to uphold or overturn an exclusion where the criteria are met to require a review. If the pupil is back in school, the governing board should ensure that its decision to overturn the suspension or exclusion is recorded in the pupil's record.





# Best practice

Everybody except the panel and the clerk **should be asked to leave the meeting before a decision is made.** The panel should discuss the suspension or exclusion, decide on the lawfulness, reasonableness and procedural fairness of the decision, and consider the evidence given on all sides.



# Communicating the decision

- When the decision has been made, you'll need to inform the headteacher, the DCEO , the local authority (as well as the pupil's home authority where appropriate), and the parents **in writing, including how the panel reached the decision and its justification for it.**
- If a pupil has a social worker they should also be informed.



# Communicating the decision

- If the headteacher's decision to permanently exclude a pupil is upheld, you'll need to make sure the parents receive the following information in writing – use GCC templates:
  - The reason for the panel's decision.
  - That they have a right to appeal to an IRP within 15 school days of receipt of the panel's decision.
  - How they can appeal the decision, including to whom the appeal should be submitted and what they should say in their application for review, e.g. on what grounds the appeal is being made.
  - That they have a right to appoint someone to represent their case at their own expense.
  - What they can do if they think discrimination has occurred in the decision, i.e. making a claim under the Equality Act 2010 to a First-Tier Tribunal or the County Court.



# Independent Review Panel

- If you've decided to **uphold the headteacher's decision to permanently exclude**, and the parents are unhappy with this decision, they have a right to appeal to have the decision **reviewed by an Independent Review Panel (IRP)**.
- Parents need to apply within 15 school days of being informed of the local governing board's decision, or within 15 days of the decision on any discrimination claims made under the Equality Act 2010.
- If they don't make a claim within this timeframe, or they state in writing that they will not pursue a review, they have forfeited their right to appeal, and the governing board is responsible for **removing the pupil's name from the school roll** – where an application has not been made within the timeframe, it must be rejected.



# Independent Review Panel

- There is no requirement to seek further representations from other parties or to invite them to the reconsideration meeting. The governing board is not prevented from considering other matters that it considers relevant. **It should, however, ensure that any additional information does not make the decision unlawful.** This could be the case, for example, where new evidence is presented or information is considered that is relevant to the decision at hand.
- The governing board should base its reconsideration on the presumption that a pupil will return to the school if reinstated, regardless of any stated intentions by the parents of the pupil. The governing board should note the outcome of its consideration on the pupil's educational record, along with copies of any papers for future reference.



# Independent Review Panel

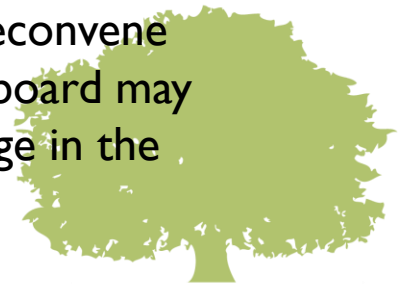
- If parents apply for an IRP review, an IRP must be arranged to review the decision not to reinstate the permanently excluded pupil. In **maintained schools**, this is the responsibility of the **LA** to organise; however, if you're an **academy trust**, the **trust board** is responsible for arranging this.
- The review must begin within 15 school days of the day on which the parents' application for a review was made.



# Independent Review Panel

The IRP can decide to:

- Uphold the governing board's decision not to reinstate the pupil.
- Recommend that the governing board reconsider reinstatement.
- Quash the governing board's decision and direct the reinstatement of the pupil – this can only be done where the panel considers the board's decision to be flawed in line with the evidence available to the governing board at the time it made its decision.
- This decision can be made by majority vote, with the panel chair acting as the decider if there is a tie. The IRP's decision is binding on all parties. When making a decision, the panel needs to take into account whether the governing board's decision was within the scope of its legal powers, whether it relied on all relevant points and was rational, and whether it was procedurally fair.
- If the panel recommends that the governing board reconsiders reinstatement, e.g. if new evidence has come to light which may cast doubt over the decision to permanently exclude, the governing board must reconvene to reconsider the exclusion within 10 school days of notice of the panel's decision. The governing board may stand by its original decision, but needs to have a strong justification for this, or it may face challenge in the courts.



# Questions







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