HATTON
ACADEMIES TRUST

Exclusion Policy

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1. Introduction
This policy follows the requirements set out in the August 2024 document – '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'

Related policies are each academy's individual Behaviour for Learning Policy and 'Rewards and Sanctions'. In this policy the Directors have determined that pupil exclusion in appropriate circumstances is a sanction that can be used in the Trust Academies.

The Directors, Trust Senior Staff and Principals are expected to acquaint themselves fully of their duties under the policy, and the relevant DfE guidance. In this policy the term 'Principal' is used for the senior academy lead. The procedures apply to each academy in Hatton Academies Trust.

Our Trust believes that every pupil has an equal right to access full education and to achieve the very best they can within their setting. All pupils have a right to an education underpinned by high standards of behaviour so that pupils are protected from disruption and are in a calm, safe, and supportive environment. To achieve this, suspension and permanent exclusion are sometimes a necessary part of a functioning system, where it is accepted that not all pupil behaviour can be amended or remedied by pastoral processes, or consequences within the academy.

2. Aims
The Board of Directors will:

- give appropriate support to the Principal in exclusion issues
- use its best endeavours to ensure that the academy does not interfere with the continuous education of a pupil beyond what is necessary to modify behaviour
- ensure that exclusion is used appropriately within the framework of the individual academy's behaviour policy
- discharge appropriately its statutory duties concerning the consideration of re-instatement of excluded pupils
- ensure under the Equality Act 2010 that the academy does not discriminate against, harass, or victimise pupils because of their: sex; race; disability; religion or belief; sexual orientation; because of pregnancy or maternity; or because of gender reassignment. For disabled children this includes a duty to make reasonable adjustments to policies and practices.

The CEO will oversee the trust's obligations regarding behaviour and exclusions on behalf of the Board of Directors.

3. Permanent exclusion
A decision to exclude a pupil permanently should be taken only:

a) in response to serious breaches of the academy's behaviour policy

b) if allowing the pupil to remain in the academy would seriously harm the education or welfare of the pupil or others in the academy.

A decision to exclude a pupil **permanently** is a serious one and should only be taken where the basic facts have been clearly established on the balance of probabilities. When establishing the facts in relation to a suspension or permanent exclusion decision the Principal 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 accepting that something happened if it is more likely that it happened than that it did not happen.

It will usually be the final step in a process for dealing with disciplinary offences following a wide range of other strategies which have been tried without success. It is an acknowledgement by the academy that it has exhausted all available strategies for dealing with the pupil and should normally be used as a last resort.

There will, however, be exceptional circumstances where, in the Principal's judgement, it is appropriate to permanently exclude a child for a first or 'one off' offence. These might include:

a) serious actual or threatened violence against another pupil or a member of staff

b) sexual abuse or assault

c) being in possession of and/or offering to supply or give an illegal drug

d) being in possession of an offensive weapon. The Trust defines an offensive weapon as any item that could be used to cause injury e.g. knife, pointed object, hammer etc.

The academy should consider whether or not to inform the police where a criminal offence may have taken place. They should also inform other agencies such as a social worker, if the pupil has one assigned or the Virtual School Head (VSH) if the pupil is LAC.

These instances are not exhaustive, but indicate the severity of such offences and the fact that such behaviour can affect the discipline and well-being of the academy community.

In cases where the Principal has permanently excluded a pupil for:

a) one of the above offences

b) persistent and defiant misbehaviour including bullying or repeated possession and/or use of an illegal drug on academy premises and drug-related incidents.

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 Board of Directors or an Independent Appeal Panel to reinstate the pupil.

For any permanent exclusion, Principals should take reasonable steps to ensure that work is set and marked for pupils during the first five school days where the pupil will not be attending alternative provision.

Suspension

A decision to suspend a pupil should be taken, on a balance of probabilities, only in response to breaches of the academy's behaviour policy, including persistent disruptive behaviour, where these are not serious enough to warrant permanent exclusion and lesser sanctions such as detention are considered inappropriate.

A suspension should be for the shortest time necessary, bearing in mind that exclusions of more than a day or two make it more difficult for the pupil to reintegrate into the academy afterwards. A suspension does not have to be for a continuous period.

A suspension can also be for parts of the school day. For example, if a pupil's behaviour at lunchtime is disruptive, they may be suspended from the school premises for the duration of the lunchtime period. The legal requirements relating to the suspension, such as the Principal's duty to notify parents, apply in all cases. Lunchtime suspensions are counted as half a school day in determining whether a Directors' Panel meeting is triggered.

Where it is clear that suspensions are not being effective in deterring poor behaviour, for example if they are being repeatedly imposed on a pupil in response to the same behaviour, Principals/teachers in charge should consider alternative strategies for addressing that behaviour.

Principals should take steps to ensure that work is set and marked for pupils during the first five school days of a suspension. This can include utilising any online pathways such as Google Classroom or Oak National Academy. The legal duties to pupils with disabilities or SEN remain in force, for example, to make reasonable adjustments in how they support disabled pupils during this period. Any time a pupil is sent home due to disciplinary reasons and asked to log on or utilise online pathways should always be recorded as a suspension.

For a suspension of more than five school days, a panel of Directors must meet and set out the suitable full-time education for any pupil of compulsory school age. This provision is commonly called alternative provision and must begin no later than the sixth school day of the suspension. Where a child receives consecutive suspensions, these are regarded as a cumulative period of suspension for the purposes of this duty. This means that if a child has more than five consecutive school days of suspension, then education must be arranged for the sixth school day of suspension, regardless of whether this is because of one decision to suspend the pupil for the full period or multiple decisions to suspend the pupil for several periods in a row.

Only the **Principal** can exclude or the person in charge on the day, if the Principal is absent from the academy. Exclusion can only be on disciplinary grounds.

Before deciding to exclude a pupil the Principal will:

- will ensure that an appropriate investigation has been conducted
- ensure that all the relevant evidence has been considered
- give the pupil an opportunity to be heard and where possible make a written statement
- consult other relevant people if necessary
- review the case considering the duties and guidance detailed below

The Principal and Pastoral staff should use the Trust's Guidance and Exclusion pro-forma to ensure the decision-making process. Appendix 2 is to be used for the exclusion of SEN/disabled pupils.

Having considered these matters the Principal will make a decision based normally on the balance of probability.

Duties and Statutory Guidance before taking the decision to exclude:

1. Statutory duties in regard to Special Educational Needs and having regard to the SEN Code of Practice

2. The Equality Act public sector duty means having regard for the need to:

- eliminate discrimination 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 share it
- foster good relations across all characteristics between people who share a protected characteristic and people who do not share it.

Factors to be considered before exclusion:

1. an appropriate **investigation** has been conducted

2. all the **relevant evidence** has been considered

3. the pupil's version has been heard, considering these in light of their age and understanding, unless it would not be appropriate to do so. The pupil should know about how their views have been factored into any decision made

4. the Principal should also take account of any contributing factors identified after an incident of misbehaviour has occurred and consider the Behaviour in Schools guidance

5. check whether the incident may have been provoked, for example, by bullying or by racial or sexual harassment

6. if appropriate, other people have been consulted (not a member of the panel who may review the permanent or fixed period exclusion)

7. the behaviour of a pupil outside of the academy can be considered as grounds for exclusion. This is a matter of judgement for the Principal in accordance with the academy's published behaviour policy.

Appendix 3 is the statutory guidance for Principals when considering exclusion.

If **the balance of probabilities has been established,** the pupil may be excluded.

Alternatives to exclusion
For example:

- early pastoral intervention
- a restorative justice process – whereby the harm caused to the 'victim' can be redressed
- internal exclusion (removal from class, but not the site)
- a managed move to another school
- alternative provision.

When Exclusion is inappropriate
In cases of:

- minor breaches of discipline;
- poor academic performance;
- truancy or lateness;
- pregnancy;
- breach of uniform policy; and in response to
- the (unacceptable) behaviour/attitude/conduct of a pupil's parents.

Exclusions can either be for a **Fixed Period or Permanent**. Indefinite exclusions are not permissible by law. The law does not allow for extending a suspension or 'converting' a suspension into a permanent exclusion. In exceptional cases, usually where further evidence has come to light, a further suspension may be issued to begin immediately after the first suspension ends; or a permanent exclusion may be issued to begin immediately after the end of the suspension.

Cancelling Exclusions
The Principal may cancel a suspension or permanent exclusion that has already begun, or one that has not yet begun, but only where it has not yet been reviewed by the local governing body. Where there is a cancellation:

- The parents, Directors (through the CEO) and LA will be notified without delay
- Where relevant, any social worker and VSH will be notified without delay
- The notification must provide the reason for the cancellation
- The Directors' duty to hold a meeting and consider reinstatement ceases
- Parents will be offered the opportunity to meet with the Principal to discuss the cancellation, which will be arranged without delay
- The pupil will be allowed back in school without delay.

Any days spent out of school as a result of any exclusion, prior to the cancellation, will count towards the maximum of 45 school days permitted in any school year.

A permanent exclusion cannot be cancelled if the pupil has already been excluded for more than 45 school days in a school year or if they will have been so by the time the cancellation takes effect.

4. Informing Parents and Carers
Where the Principal excludes a pupil they must, without delay, notify parents of the period of exclusion and the reasons for it. The details which must be provided to parents and carers are detailed in Appendix 4.

Where an excluded pupil is of compulsory school age the Principal must also notify parents without delay, and by the end of the afternoon session.

Parents may be notified by telephone, text message or email on the day of the exclusion. The Academy will follow this notification with a letter sent by first class post.

Parents must be informed of the arrangements for the child to continue their education. This will usually be that teachers will set work for the missed classes and the work should be collected from the academy main reception.

Parents must be informed where a suspension has been extended, resulting in an additional suspension being recorded for the pupil. In such cases, the Principal must write again to the parents explaining the reasons for the additional suspension, and providing any additional information required.

5. Informing the CEO, Board of Directors and other stakeholders
The Principal must, without delay, notify the CEO and the Local Authority of:

- a permanent exclusion (including where a fixed period exclusion is to be followed by a permanent exclusion)
- exclusions which would result in the pupil being excluded for more than five school days (or more than ten lunchtimes) in a term
- exclusions which would result in the pupil missing a public examination or national curriculum test
- repeated or permanent exclusion of a pupil who has an EHCP.

For all other exclusions the Principal must notify the CEO and twice a year in the report to Directors.

Notifications must include the reasons for the exclusion and the duration of any fixed period exclusion.

In addition, within 14 days of a request, the Board of Directors must provide to the Secretary of State information about any exclusions within the last 12 months.

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

If a:

- **Pupil with a social worker** is at risk of suspension or permanent exclusion, the Principal or DSP will inform **the social worker** as early as possible
- **Pupil who is a looked-after child (LAC)** is at risk of suspension or exclusion, the Principal or DSP will inform **the VSH** as early as possible.

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

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

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

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

6. Education of excluded pupils

For exclusions of less than 5 days, the academy will set work for the pupil. This will be made available for collection from reception by the parents/carers. Work will be set and marked in order to ensure that the pupil's education is affected as little as possible.

Exclusions of more than 5 days will be a sanction avoided in most cases. However, if this sanction is used, the academy will ensure that alternative full time education is provided.

For permanent exclusions, the Local Authority must arrange full time education.

7. The Board of Directors duty to consider exclusion

The Board of Directors has a duty to consider parents' representations about exclusion. The requirements to consider exclusion depend upon a number of factors. Further guidance is provided in Appendix 5. The requirements are illustrated by the diagram in Appendix 6. Appendix 7 is a checklist for directors.

The Board of Directors must consider the reinstatement of an excluded pupil within 15 school days of receiving notice of the exclusion if:

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

If requested to do so by the parents, the Board of Directors must consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion if a pupil would be excluded from school for more than five school days, but not more than 15, in a single term.

The Board of Directors is **not** required to meet and cannot direct the reinstatement of the pupil for exclusions of more than 5 but fewer than 15 school days in the term, **if the parents do not make representations.**

The Trust do not wish pupils to miss public examinations. In most cases the pupil will sit the examination but separately from the rest of the year group. In exceptional circumstances for example, if the exclusion is for violent this may results in the pupil not being allowed onto the premises.

In all cases the Board will try to consider the case before the examination. If this is not practicable, the Chair of the Board of Directors may consider the exclusion independently and decide whether or not to reinstate the pupil. These are the only circumstances in which the Chair can review an exclusion decision alone. In such cases the parents still have the right to make representations to the Board of Directors and must be aware of this right.

The following parties must be invited to a meeting of the Board of Directors and allowed to make representations:

- parents
- the Principal,
- at the invitation of the parents, a representative or friend. That representative or friend may only make representations with the Board of Director's consent
- the child's social worker if the pupil has one; and
- the VSH if the child is LAC.

The Board of Directors must make reasonable endeavours to arrange the meeting for a date and time that is convenient to all parties, but in compliance with the relevant statutory time limits set out above. However, its decision will not be invalid simply on the grounds that it was not made within these time limits.

8. Considering the reinstatement of an excluded pupil

Where the Board of Directors is legally required to consider an exclusion they must consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and people working at the academy. Directors should consider the possibility of reinstatement and the impact of this along with the decision to exclude.

The Board of Directors must also consider any representations made by:

- parents;
- the Principal
- a representative of the local authority if invited and their contribution has been consented to
- the child's social worker if the pupil has one; and
- the VSH if the child is LAC.

It is likely that pupils with a social worker/VSH have experienced or are experiencing adversity or difficulties. Social workers can provide important information that helps Directors to understand the experiences of a pupil and their welfare.

Social workers/VSH should, as far as possible, attend the panel meeting to share information. This should include helping to identify how the pupil's circumstances may have influenced the circumstances of the pupil's suspension or permanent exclusion and ensuring that any safeguarding or other relevant needs and risks and the child's welfare are taken into account.

When establishing the facts in relation to an exclusion decision the Board of Directors 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'. In the light of their consideration, the Board of Directors can either:

- uphold an exclusion; or
- direct reinstatement of the pupil immediately or on a particular date.

Where reinstatement is not practical because for example, the pupil has already returned to the academy following the expiry of a fixed period exclusion or the parents make clear they do not want their child reinstated, the Board of Directors must, in any event, consider whether the Principal's decision to exclude the child was justified based on the evidence.

9. The Board of Directors duty to notify people after their consideration of an exclusion

Where legally required to consider exclusion, the Board of Directors must notify parents, the Principal and the local authority of their decision, and the reasons for their decision, in writing and without delay. Where the pupil resides in a different local authority from the one that maintains the school, the Board of Directors must also inform the pupil's 'home authority'.

In the case of a permanent exclusion the Board of Director's notification must also include the information below.

- The fact that it is permanent.
- Notice of parents' right to ask for the decision to be reviewed by an independent review panel and the following information:

  a) the date by which an application for a review must be made (i.e. 15 school days from the date on which notice in writing of the Board of Director's decision was given to parents);

  b) the name and address to whom an application for a review (and any written evidence) should be submitted;

  c) that a request to hold the meeting via the use of remote access can be made and knows how and to whom to make this request to;

  d) that any application should set out the grounds on which it is being made and that, where appropriate, this should include a reference to how the pupil's special educational needs are considered to be relevant to the exclusion;

e) that, regardless of whether the excluded pupil has recognised special educational needs, parents have a right to require the local authority / Academy Trust to appoint an SEN expert to attend the review;

f) details of the role of the SEN expert and that there would be no cost to parents for this appointment;

g) that parents must make clear if they wish for a SEN expert to be appointed in any application for a review; and

h) that parents may, at their own expense, appoint someone to make written and / or oral representations to the panel and that parents may also bring a friend to the review.

- That, in addition to the right to apply for an independent review panel, if parents believe that the exclusion has occurred as a result of discrimination then they may make a claim under the Equality Act 2010 to the First-tier Tribunal (Special Educational Needs and Disability), in the case of disability discrimination, or the County Court, in the case of other forms of discrimination.
- That a claim of discrimination made under these routes should be lodged within six months of the date on which the discrimination is alleged to have taken place e.g. the day on which the pupil was excluded.

The Board of Directors may provide the information above by: delivering it directly to parents; leaving it at their last known address; or by posting it to this address.

Notice is deemed to have been given on the same day if it is delivered directly or on the second working day after posting if it is sent by first class mail.

10. Return to the academy following a suspension

All pupils will have a reintegration meeting on their return to the academy. This should be with a parent/carer and the pupil should attend the meeting and be involved in the meeting as appropriate. At other times the pupil can wait outside the meeting room. The return meeting should normally involve senior pastoral staff in the academy; and the Principal or Vice Principal. An academy trust representative may also be asked to attend the meeting, especially in serious cases or where there have been several fixed period exclusions.

The meeting should take the opportunity to design or review a way forward that offers the pupil a fresh start; helps them understand the effect of their behaviour on themselves and others; teaches them to how meet the high expectations of behaviour in line with the school culture; fosters a renewed sense of belonging within the school community; and builds engagement with learning. During a reintegration meeting, senior leaders should communicate to the pupil that they are valued, and their previous behaviour should not be seen as an obstacle to future success.

If the parent/carer cannot attend the meeting at the end date of the fixed-term exclusion, or does not turn up, the meeting shall be rearranged for another time. The return to academy of the pupil should not be delayed. The pupil should normally be placed in ISE or alternative 'removal' until the meeting with parents has taken place. However, this can be reviewed on an individual basis by the Principal.

The return meeting should have notes taken using the trust's pro-forma (Appendix 8). These should be signed by a representative of the academy (usually the Principal or Vice Principal) and by the parent/carer and the pupil if there are actions for the pupil to take.

As part of the reintegration strategy a part-time timetable could be considered but should not be used long term to manage a pupil's behaviour and must only be in place for the shortest time necessary. Any pastoral support programme or other agreement should have a time limit by which point the pupil is expected to attend full-time education, either at school or alternative provision. There should also be formal arrangements in place for regularly reviewing a part-time timetable with the pupil and their parents.

Academies can consider a range of measures to enable the pupil's successful reintegration which can include, but are not limited to:

- Maintaining regular contact during the suspension or off-site direction and welcoming the pupil back to school;
- Daily contact with a designated pastoral professional in school;
- Use of a report card with personalised targets leading to personalised rewards;
- Ensuring the pupil follows an equivalent curriculum during their suspension or off-site direction or receives academic support upon return to catch up on any lost progress;
- Planned pastoral interventions;
- Mentoring by a trusted adult or a local mentoring charity;
- Regular reviews with the pupil and parents to praise progress being made and raise and address any concerns at an early stage;
- Informing the pupil, parents and staff of potential external support.

11. The Board of Directors' duty to remove a permanently excluded pupil's name from the school register

When removing a pupil's name from the school admission register, the Board of Directors must ensure this is done under the circumstances prescribed by paragraph 9(5)(c) of the School Attendance (Pupil Registration) (England) Regulations 2024.

Where alternative provision has been made for an excluded pupil and they attend, code B (education off-site) or code D (dual registration) will be used on the attendance register.

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

The Board of Directors must remove a pupil's name from the school admissions register if:

- 15 school days have passed since the parents were notified of the Board of Director's decision to uphold a permanent exclusion and no application has been made for an independent review panel; or
- The parents have stated in writing that they will not be applying for an independent review panel.

Where a pupil's name is to be deleted from the school admissions register because of a permanent exclusion the academy must make a return to the local authority.

The return must include:

- the pupil's full name;
- the full name and address of any parent with whom the pupil normally resides;
- at least one telephone number at which any parent with whom the pupil normally resides can be contacted in an emergency;
- and the grounds upon which their name is to be deleted from the admissions register (i.e. permanent exclusion);
- if the pupil's parent or parents have told the school that the pupil is going to live with one or more of them at a new address, the return must also include the new address, the name of the parent(s) the pupil is going to live there with, and the date when the pupil is going to start living there;
- if the pupil's parent or parents have told the school that the pupil is already registered at another school or is going to go to another school, the return must also give the name of that school and the first date when the pupil attended or is due to attend there; and
- this return must be made as soon as the grounds for deletion is met and no later than the deletion of the pupil's name.

Where an application for an independent review panel has been made within 15 school days, the academy must wait until the review has been determined, or abandoned, before removing a pupil's name from the register.

The Principal of the Academy will undertake this Duty on behalf of the Board and confirm this in an email to the CEO.

Where a pupil's name is removed from the academy register and a discrimination claim is subsequently made, the First-tier Tribunal or County Court has the power to direct that the pupil should be reinstated.

12. Witness statements

Witness statements usually form an important part of the investigation into breaches of the academy's behaviour policy and the decision to exclude. Witness statements are commonly taken from other pupils as witnesses, the victim (s) and the pupil suspected of the breach of the behaviour policy to give their own version of events. Statements from teachers and support staff are also taken to help with the exclusion decision. The Board of Directors of Hatton Academy Trust has considered the anonymity of the witnesses and has agreed that all witness statements will be anonymised and a number used instead of the name. There will be a master list of numbers to identify the witness and this will be available to the Executive Principal/Principal and Directors only at meetings involving parents/carers or any appeal panels.

13. The Trust's duty to arrange an independent review panel

Arranging a date and venue

If applied for by parents within the legal time frame, the Academy Trust must, at their own expense, arrange for an independent review panel hearing to review the decision of the Board of Directors not to reinstate a permanently excluded pupil.

The legal time frame for an application is:

- within 15 school days of notice being given to the parents by the Board of Directors of their decision to uphold a permanent exclusion; or
- where an application has not been made within this time frame, within 15 school days of the final determination of a claim of discrimination under the Equality Act 2010 in relation to the exclusion

Any application made outside of the legal time frame must be rejected by the Academy Trust.

The Academy Trust must not delay or postpone arranging an independent review panel where parents also make a claim of discrimination in relation to the exclusion to the First-tier Tribunal (Special Educational Needs and Disability) or the County Court.

Parents may request an independent review panel even if they did not make a case to, or attend the meeting at which the Board of Directors considered the exclusion.

The Academy Trust must take reasonable steps to identify a date for the review that all parties are able to attend. However, the review must begin within 15 school days of the day on which the Academy Trust received the parent's application for a review (panels have the power to adjourn a hearing if required).

The Academy Trust must arrange a venue for hearing the review, which must be in private unless the panel directs otherwise. The review may be held via the use of remote access (for example, live video link) for suspension and permanent exclusions if requested by the parents, provided certain criteria are satisfied. Meetings held via the use of remote access should not be a default option and face to face meetings should always be encouraged.

Where the issues raised by two or more applications for review are the same, or connected, the panel may combine the reviews if, after consultation with all parties, there are no objections.

Appointing panel members
The Academy Trust must constitute the panel with three (or five) members representing one from each of the three categories below:

- A lay member to chair the panel who has not worked in any school in a paid capacity, disregarding any experience as a school governor or volunteer.
- School academy representatives, who have served as a governor for at least 12 consecutive months in the last five years, provided they have not been teachers or Principals during this time.
- Executive Principals/Principals or individuals who have been an Executive Principal/Principal within the last five years.

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

- are a member/director of Hatton Academies Trust;
- are the Executive Principal/Principal of a Hatton Academies Trust Academy or anyone who has held this position in the last five years;
- are an employee of Hatton Academies Trust, (unless they are employed as a Principal at another school);

- have, or at any time have had, any connection with Hatton Academies Trust, Academy, parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartially (though an individual must not be taken to have such a connection simply because they are a Principal at another school); or
- have not had the required training within the last two years (see below).

It is for Academy Trust to determine their own payment arrangements for panel members.

The Academy Trust must make arrangements to indemnify panel members against any legal costs and expenses reasonably incurred as a result

Appointing a clerk and the clerk's role
The Academy Trust may appoint a clerk to provide advice to the panel and parties to the review on procedure, legislation and statutory guidance on exclusions.
Where appointed the clerk must perform the following additional functions:

1) Make reasonable efforts to inform the following people that they are entitled to: make written representations to the panel; attend and make oral representations to the panel; be represented; and (in the case of a parent), to bring a friend:

- the parents
- the Executive Principal or Principal (where an excluding Executive Principal/Principal has left the academy, the panel may use its discretion in deciding whether also to invite this person to make representations)
- the Board of Directors.

2) Make reasonable efforts to circulate to all parties, including to panel members and the SEN expert, copies of relevant papers 5 school days in advance of the review. These papers must include:

- the Board of Directors decision
- the parents' application for a review
- any policies or documents that the Board of Directors were required to have in regard to making their decision.

3. Give all parties details of those attending and their role, once the position is clear.

4. Attend the review and ensure that minutes are produced in accordance with instructions from the panel.

Where a clerk is not appointed the functions 1-4 above become the responsibility of the Academy Trust.

Ensuring that panel members and clerks are trained
The Academy Trust must ensure that all panel members and clerks have received training within the two years prior to the date of the review. This training must have covered:

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

Appointing a SEN expert
If requested by parents in their application for an independent review panel, the Academy Trust must appoint a SEN expert to attend the panel and cover the associated costs of this appointment.

The Academy Trust must make arrangements to indemnify the SEN 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 SEN expert at a review, regardless of whether the academy recognises that their child has SEN. There is no cost to parents for this appointment.

The SEN expert's role is set out in Appendix 9.

Individuals may not serve as a SEN expert if they have, or at any time have had, any connection with the local authority, Academy Trust, academy, parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their ability to act impartially. However, an individual is not taken to have such a connection solely because he/she is an employee of the LA or Academy Trust.

The duties of independent review panel members, the clerk and the SEN expert in the conduct of an independent review panel
Panel members and, if appointed, the SEN expert must declare any known conflict of interest before the start of the review. The clerk to the independent review panel should not have served as clerk to the Board of Directors in the meeting at which the decision was made not to reinstate the pupil. Independent review panel members are expected to understand the legislation that is relevant to exclusions and the legal principles that apply.

The role of the panel is to review the Board of Director's decision not to reinstate a permanently excluded pupil. In reviewing the decision the panel must consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and people working at the academy.

The panel 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'.

Following its review the panel can decide to:

- uphold the exclusion decision;
- recommend that the Board of Directors reconsiders their decision, or
- quash the decision and direct that the Board of Directors considers the exclusion again.

The panel's decision does not have to be unanimous and can be decided by a majority vote. In the case of a tied decision the chair has the casting vote.

The independent review panel's decision is binding on the: pupil; parents; local authority; and the Academy Trust.

The panel may only quash the decision where it considers that it was flawed when considered in the light of the principles applicable on an application for judicial review (statutory guidance on this consideration is provided in Appendix 9).

New evidence may be presented to the panel, though the academy may not introduce new reasons for the exclusion and panels must disregard any new reasons that are introduced.

In deciding whether the Board of Director's decision was flawed, and therefore whether to quash the decision, the panel must only take account of the evidence that was available to the Board of Directors at the time of making their decision. This includes any evidence which the panel considers would, or should, have been available to the Board of Directors if they had been acting reasonably.

If evidence is presented that the panel considers is unreasonable to have expected the academy committee to have been aware of at the time of their decision, the panel can take account of the evidence when deciding whether to recommend that the academy committee reconsider their decision.

Where present, the panel must seek and have regard to the SEN expert's view of how SEN might be relevant to the pupil's exclusion. Where a SEN expert has been requested but is not present, the panel should make parents aware of their right to request that the review is adjourned until such time as an SEN expert can attend.

The jurisdiction of the First-tier Tribunal (Special Educational Needs and Disability) and County Court to hear claims of discrimination relating to a permanent exclusion does not preclude an independent review panel from considering issues of discrimination in reaching its decision.

Where a panel directs the Board of Directors to reconsider an exclusion it has the power to order that the academy must make a payment to the local authority if the academy committee does not offer to reinstate the pupil within 10 school days of receiving notice of the panel's decision. The sum of this adjustment / payment must be £4,000 and would be in addition to any funding that would normally follow an excluded pupil.

The panel does not have the power to order a readjustment or payment in circumstances where it has only recommended that the Board of Directors reconsiders their decision.

The panel may adjourn on more than one occasion, if necessary. However, consideration must be given to the effect of adjournment on the parties to the review, the excluded pupil and any victim.

A review cannot continue if the panel no longer has representation from each of the three categories of members required. In this event, the panel must be adjourned until the number can be restored.

Once a review has begun, no panel member may be substituted by a new member for any reason. Accordingly, if the required representation cannot be restored from the original members, a new panel must be constituted to conduct the review afresh. In the case of a five-member panel, the panel may continue in the absence of any of its members, provided all three categories of member are still represented.

Following the review, the panel must issue written notification to all parties without delay. This notification must include:

- the panel's decision and the reasons for it
- where relevant, details of any financial readjustment / payment to be made if the Board of Directors subsequently decides not to offer to reinstate a pupil; and
- any information that must be recorded on the pupil's educational record to reflect the decision (in particular, where the Board of Directors reinstate a pupil following a direction to reconsider, it must be noted that the exclusion will not count towards the rule that an admission authority may refuse to admit a child who has been excluded twice.

The Academy Committee's duty to reconsider an exclusion decision following a review
If an independent review panel directs or recommends that the Board of Directors reconsiders whether a pupil should be reinstated, the Board of Directors should do so conscientiously. The Board of Directors may still reach the same conclusion as before, but it may face challenge in the courts if it refuses to reinstate the pupil without strong justification.

Where the panel directs or recommend the Board of Directors reconsiders their decision, the Academy Committee must reconvene to do so within 10 school days of being given notice of the panel's decision. Notice is deemed to have been given on the same day if it is delivered directly or on the second working day after posting if it is sent by first class mail.

If, following a direction to reconsider, the academy committee does not offer to reinstate the pupil within 10 school days of being notified of the panel's decision, the Academy, would be required to make an equivalent payment (£4000) directly to the local authority. This payment will be in addition to any funding that would normally follow an excluded pupil.

If the Board of Directors offers to reinstate the pupil within the specified timescale but this is declined by the parents, no payment will be required. The Board of Directors must comply with any direction of the panel to place a note on the pupil's educational record. This includes noting that, where a pupil is not reinstated following a direction to

reconsider, the exclusion does not count towards the rule that an admission authority may refuse to admit a child who has been excluded twice.

In the case of either a recommended or directed reconsideration, the Board of Directors must notify the following people of their reconsidered decision, and the reasons for it, in writing and without delay:

- the Parents
- the Principal
- the local authority and, where relevant, the 'home authority'.

14. Training of staff and Directors

All pastoral teaching staff, pastoral support staff, the Principal, CEO and Directors involved in the exclusion process will receive up to date training. This will involve external courses and consultants as well as dissemination of the training within the academy to the whole team involved in the pastoral process concerning exclusion.

A log of training will be kept by Hatton Academies Trust HR Department.

15. Off-rolling

Off-rolling is unlawful. Ofsted defines off-rolling as:
"The practice of removing a pupil from the school roll without a formal, permanent exclusion or by encouraging a parent to remove their child from the school roll, when the removal is primarily in the interests of the school rather than in the best interests of the pupil."

We will not suspend or exclude pupils unlawfully by directing them off site or not allowing pupils to attend school without following the statutory procedure, contained in the School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012, or formally recording the event, such as sending them home to 'cool off'. In addition, we will not suspend or exclude pupils unlawfully:

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

Appendix 1: Principal's exclusion checklist

Original to Principal's PA file and copy to Director of Year for pupil file

Pupil Name		**Form Group**	
Ethnicity of pupil:			

Is this pupil?	
Characteristic	**Tick if applicable**
EHCP	
K	
Disabled	
PP	
LAC	
Child Protection concern	

Has the pupil had any previous suspensions?	
Date	**Number**
This term	0
This academic year	0
Previous academic years	0

The following documents should be attached:

- ✓ Behaviour Watch record
- ✓ Statement of SEN/EHCP where applicable
- ✓ Return to school meetings
- ✓ PSP and IEPs etc.

HAS THE PUPIL COMMITTED A DISCIPLINARY OFFENCE? **The Principal must first establish whether the pupil has committed a disciplinary offence. This requires the Principal to ensure that the incident(s) is thoroughly investigated and not to make a decision in "the heat of the moment".**	**YES**	**NO**
1. With reference to the Academy Behaviour Policy, has the pupil committed a disciplinary offence? Brief details:		
2. Is it appropriate to suspend the pupil so that I can carry out an appropriate investigation to establish what has happened? ***This should normally only be the case if there has been a serious breach of the behavior policy e.ge. threatening or violent behaviour. Usually, a pupil should be placed in ISE***		
3. Have I carried out an appropriate investigation into the incident, which requires me to: • Obtain written statements from any witnesses. These may be anonymised to protect the identity of children. Insert the names of witnesses:		

Names of staff present when statement taken: • Obtained a written statement from the perpetrator where possible or a witnessed statement written by a staff member. • Consider any CCTV evidence • Consider other evidence (provide details)		
4. Is there any evidence that the incident was the result of any provocation or bullying? If Yes, give details		
5. Have issues of SEN/EHCP, disability, race and care been fully considered? ***If the pupil has as statement or disability the additional pro-forma must be completed. Please see separate checklist for considerations around exclusion of children with SEN/EHCP/disability.*** ***If there is a disability and/or statement of SEN/EHCP a copy of the statement document must be attached to this document along with the SEN/EHCP pro-forma.***		
IS EXCLUSION THE PROPORTIONATE RESPONSE TO THE BEHAVIOUR **Having completed the investigation, the Principal/Head of School now needs to decide what action to take.**	**YES**	**NO**
1. Having completed the investigation, on the balance of probabilities, did the pupil do what they are alleged to have done? For more serious allegations the evidence must be more substantiating. Give details:		
2. Does the pupil's presence seriously harm the education/welfare of pupils/others?		
FACTORS TO CONSIDER BEFORE DECIDING THE SANCTION **Having determined that the child committed a disciplinary offence the Principals/Head of School has to decide whether there are any other factors to consider.**	**YES**	**NO**
1. Is this a serious first or 'one off' offence? *Attach the Behaviour Watch or other Report or other report for the pupil for the current academic year.*		

2. Does the behavior follow a continuous pattern of poor behaviour? Consider: • The child's recent disciplinary record (last 6 months). • How many days the child has been excluded in the school year.		
3. Has there been involvement from any local authority or other support agencies to support the child and the school.		
4. Has the pupil been excluded before? Give details of date(s), length of exclusion(s) and reason(s) for the exclusion(s).		
5. Have alternatives to exclusion been considered? Consider: • Managed Move • Education Off-site • Restorative Justice • Mediation • In-School Exclusion (ISE)		
6. Have these alternatives been discussed with parents/carers?		
7. Does this pupil have statement of special educational needs/EHCP? If yes, have you contacted the SENCO and requested advice? Attach the statement to this report		
8. Has an emergency annual review been called?		
9. Is this pupils looked after? Have you contacted the appropriate social worker to discuss and what additional support might be provided?		
10. Is this pupil on the Child Protection register or a Child in Need?		
11. Have you spoken to social services if the pupil is LAC or there is a child protection concern?		
12. Is there an Early Health Assessment (EHA) for this young person?		
EXCLUDED CHILD – WHAT NEXT? **Having decided that exclusion is appropriate, you now need to consider the type of exclusion appropriate.**	**YES**	**NO**
1. You have decided that a suspension is appropriate: • Appropriate length of exclusion considered? • Is this for the shortest possible time? Details of days and dates of a suspension		
2. You have decided that a permanent exclusion is appropriate: • Is this because of a serious one off offence?		

• or a culmination of poor behaviour? • Is this as a last resort following a wide range of other strategies that have been unsuccessful?		

Exclusion procedure	**Action taken by**	**Date/Time**
Parents contacted by telephone/ text/ email (delete as appropriate) If contact is unsuccessful a letter is to be sent home with the pupil if at all possible		
Letter sent to confirm exclusion by first class post		
Work requested		
Work placed at reception		
Date and time of return to school meeting		
Staff to be present at the return to school meeting		
Local Authority notified of exclusion Exclusions | North Northamptonshire Council (northnorthants.gov.uk)		
If applicable the pupil's social worker or VSH will be notified of exclusion		

Signed _____ Pastoral Lead

Signed _____ Vice Principal/SLT

Signed _____ Principal or CEO

Date _____

Appendix 2: Checklist for excluding a child with SEN/a disability

Name of Pupil _____ Form group_____

	YES	NO
What disability or SEN does this pupil have? i.e. do they have a mental or physical impairment that is: • Adverse • Long term • Substantial • Affects their ability to carry out normal day to day activities? (mobility, manual dexterity, physical coordination, continence, ability to lift, carry or otherwise move everyday objects, speech hearing or eyesight, memory or ability to concentrate learn or understand, perception of risk of physical danger)		
Has the pupil been treated less favourably? i.e. would/has a pupil without a disability have been dealt with in the same way? You will need to consider: • What is the less favourable treatment? • What is the reason for the less favourable treatment? • Is the reason directly related to their disability? • Can less favourable treatment be justified? • Is the justification material and substantial?		
Have reasonable adjustments been made for this pupil? You will need to consider: • Would failure to make reasonable adjustments place the pupil at a substantial disadvantage? • Could the need to make reasonable adjustments have been anticipated? • Has the academy reviewed policies, practices and procedures (continuing responsibility)? • Does the reasonable adjustment involve the removal/alteration of physical features? • Does the reasonable adjustment involve the provision of auxiliary aids/services? • Have relevant factors been explored and balanced? o Need to maintain standards? o Financial resources available? o Cost of taking particular step?		

○ Extent to which practical to take particular step? ○ Extent to which auxiliary aid/services will be provided under SEN framework? ○ Health and safety requirements ○ Interests of other pupils/prospective pupils? • Could the academy have been reasonably expected to know about the disability (confidentiality; lack of knowledge)? • Can act/omission be materially and substantially justified?		
What future adjustments could be made to try to prevent a repeat of the situation?		

Signed _____ Pastoral Lead

Signed _____ Vice Principal/SLT

Signed _____ SENCO

Signed _____ Principal/CEO

Date _____

Appendix 3: Statutory guidance to Principals when considering an exclusion

Statutory guidance on factors that a Principal should take into account before taking the decision to exclude. A decision to exclude a pupil permanently should only be taken:

• in response to a serious breach or persistent breaches of the school's behaviour policy; and

• where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

The decision on whether to exclude is for the Principal to take. However, where practical, the Principal should give the pupil an opportunity to present their case before taking the decision to exclude.

Whilst an exclusion may still be an appropriate sanction, the Principal should take account of any contributing factors that are identified after an incident of poor behaviour has occurred. For example, where it comes to light that the pupil has current concerns relating to safeguarding, 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 pupil may have. The Principal should also consider the use of a multi-agency assessment for a pupil 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.

Where a pupil has received multiple exclusions or is approaching the legal limit of 45 school days of fixed-period exclusion in an academic year, the Principal should consider whether exclusion is providing an effective sanction.

Statutory guidance to the Principal on the exclusion of pupils from groups with disproportionately high rates of exclusion

The exclusion rates for certain groups of pupils are consistently higher than average. This includes: pupils with SEN; pupils eligible for free school meals; looked after children; and pupils from certain ethnic groups. The ethnic groups with the highest rates of exclusion are: Gypsy/Roma; Travellers of Irish Heritage; and Caribbean pupils.

In addition to the approaches on early intervention set out above, the Principal should consider what extra support might be needed to identify and address the needs of pupils from these groups in order to reduce their risk of exclusion. For example, schools might draw on the support of Traveller Education Services, or other professionals, to help build trust when engaging with families from Traveller communities.

Appendix 4: Details to be provided to parents and carers of excluded pupils (based upon legal duty and statutory guidance).

Whenever a Principal suspends or permanently excludes a pupil they must, without delay, notify parents or the excluded pupil (if they are 18 years or older) of the period of the suspension or permanent exclusion and the reason(s) for it.

They must also, without delay, after their decision, provide parents with the following information in writing:

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

Where a suspended or permanently excluded pupil is of compulsory school age the Principal must also notify the pupil's parents of the days on which they must ensure that the pupil is not present in a public place at any time during school hours. These days are the first five school days of a suspension or permanent exclusion (or until the start date of any full-time alternative provision or the end of the suspension 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 Principal must notify the parents of the days on which their duty applies without delay and, at the latest, by the end of the afternoon session on the first day of the suspension or permanent exclusion.

If alternative provision is being arranged, then the following information must be included with this notice where it can reasonably be found out within the timescale:

- the start date for any provision of full-time education that has been arranged for the child during the suspension or permanent exclusion;

- the start and finish times of any such provision, including the times for morning and afternoon sessions where relevant;
- the address at which the provision will take place;
- any information required by the pupil to identify the person they should report to on the first day.

Where this information on alternative provision is not reasonably ascertainable by the end of the afternoon session on the first day of the suspension or permanent exclusion, it may be provided in a subsequent notice, but it must be provided without delay and no later than 48 hours before the provision is due to start. The only exception to this is where alternative provision is to be provided before the sixth day of a suspension or permanent exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent. The information must be provided in writing but can be provided by any effective method.

The failure of a Principal to give notice of the information by the required time does not relieve the Principal of the duty to serve the notice.

A notice is not made invalid solely because it has not been given by the required time. If a child is suspended again following their original suspension, or is subsequently permanently excluded, the Principal must inform parents and where relevant, the pupil's social worker or local authority if the pupil has an EHCP, without delay and issue a new exclusion notice to parents and the social worker. Informing parents46 about an exclusion.

For notifications regarding suspension or permanent exclusion, notification should be in person or by telephone in the first instance as this would allow parents to ask any initial questions or raise concerns directly with the Principal.

Principals should consider the following:

- Has the school spoken to the parents (and when appropriate, the child's social worker) to ensure they fully understand the type/scale of the incident?
- Has the school considered how to communicate accessibly and clearly, including whether parents may have particular communication needs relating to a disability or having English as an additional language (EAL)?
- Has the school provided sufficient details in the suspension or permanent exclusion notice letter on the reasons for the suspension or permanent exclusion?
- Does the notice contain all the required information as set out in part six of the DfE suspension and permanent exclusion guidance?
- Has the school informed parents (and when appropriate, the pupil's social worker or the local authority if a pupil has an EHCP) whether their pupil will be able to sit any national curriculum test(s) or public examination(s) occurring during the suspension or permanent exclusion?
- When several suspensions have been issued in a term, has the school informed parents of their right of representation to a panel of Directors?

When notifying parents about a suspension or permanent exclusion, the Principal should set out what arrangements have been made to enable the pupil to continue their education prior to the start of any alternative provision or the pupil's return to school, in line with legal requirements and DfE guidance in part six.

For notifications of suspension or permanent exclusion, effective methods for providing the information may include email or text message, giving the notice directly to the parents, or sending the information home with the suspended or permanently excluded pupil.

Where information is sent home with the pupil, the Principal should consider sending a duplicate copy by an alternative method or confirming that the information has been received.

When notifying parents about a suspension or permanent exclusion, the Principal should draw attention to relevant sources of free and impartial information. This information should include:

- The Department's Guidance for parents and carers on behaviour, suspension and permanent exclusion, which can be found here https://www.gov.uk/government/publications/school-exclusions-guide-for-parents
- Every local area has a SENDIAS service who provide information, advice and support to children and young people with SEND, including on exclusions.
- Coram's Child Law Advice service can be found through their website https://childlawadvice.org.uk/information-pages/school-exclusion/ or contacted on 0300 330 5485 from Monday to Friday, 8am – 6pm.
- ACE education run a limited service and can be reached on 0300 0115 142 on Monday to Wednesday from 10am to 1pm during term time. Information can be found on the website: http://www.ace-ed.org.uk/.
- Independent Provider of Special Education Advice (known as IPSEA – www.ipsea.org.uk) is a registered charity. It offers free and independent information, advice and support to help get the right education for children and young people with all kinds of special educational needs (SEN) and disabilities

Links to local services, such as Traveller Education Services or the local parent partnership (www.parentpartnership.org.uk).

Appendix 5: Statutory guidance to governing bodies in preparing for the consideration of an exclusion decision

Where the academy committee is legally required to consider the reinstatement of an excluded pupil they should:

• not discuss the exclusion with any party outside the meeting;

• ask for any written evidence in advance of the meeting (including witness statements and other relevant information held by the school such as those relating to a pupil's SEN);

• where possible, circulate any written evidence and information, including a list of those who will be present, to all parties at least five school days in advance of the meeting;

• allow parents and the pupil to be accompanied by a friend or representative (where a pupil under 18 is to be invited as a witness, the academy committee should first seek parental consent and invite the parents to accompany their child to the meeting);

• invite the pupil's social worker, if they have one, and if the pupil is LAC, the VSH to attend;

• comply with their duty to make reasonable adjustments for people who use the school and consider what reasonable adjustments should be made to support the attendance and contribution of parties at the meeting (for example where a parent or pupil has a disability in relation to mobility or communication that has an impact upon their ability to attend the meeting or to make representations); and

• identify the steps they will take to enable and encourage the excluded pupil to attend the meeting and speak on their own behalf (such as providing accessible information or allowing them to bring a friend), taking into account the pupil's age and understanding; or how the excluded pupil may feed in their views by other means if attending the exclusion meeting is not possible.

Statutory guidance to governing bodies on exclusions that would result in a pupil missing a public examination or national curriculum test

Whilst there is no automatic right for an excluded pupil to take an examination or test on the excluding school's premises, the academy committee should consider whether it would be appropriate to exercise their discretion to allow an excluded pupil on the premises for the sole purpose of taking the examination or test.

Guidance for the academy committee on the consideration of an exclusion decision

The academy committee should identify the steps they will take to ensure all parties will be supported to participate in their consideration and have their views properly heard. This is particularly important where pupils under 18 are speaking about their own exclusion or giving evidence to the academy committee.

The academy committee should ensure that clear minutes are taken of the meeting as a record of the evidence that was considered by academy committee. These minutes should be made available to all parties on request.

When establishing the facts in relation to a suspension or permanent exclusion the panel of Directors 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'.

The academy committee should ask all parties to withdraw before making a decision. Where, present a clerk may stay to help the academy committee by reference to his / her notes of the meeting and with the wording of the decision letter.

In reaching a decision on whether or not to reinstate a pupil, the academy committee should consider whether the decision to exclude the pupil was lawful, reasonable and procedurally fair. This should consider the welfare and safeguarding of the pupil and their peers, the Principal's legal duties, and any evidence that was presented to the governing board in relation to the decision to exclude.

The academy committee should note the outcome of their consideration on the pupil's educational record, along with copies of relevant papers for future reference.

In cases where the academy committee considers parents' representations but does not have the power to direct a pupil's reinstatement, they should consider whether it would be appropriate to place a note of their findings on the pupil's educational record.

Claims of discrimination to the First-tier Tribunal or County Court can be made up to six months after the discrimination is alleged to have occurred. Where practicable, schools should retain records and evidence relating to an exclusion for at least six months in case such a claim is made.

Statutory guidance to governing bodies on providing information to parents following their consideration of exclusion

The academy committee should set out the reasons for their decision in sufficient detail to enable all parties to understand why the decision was made.

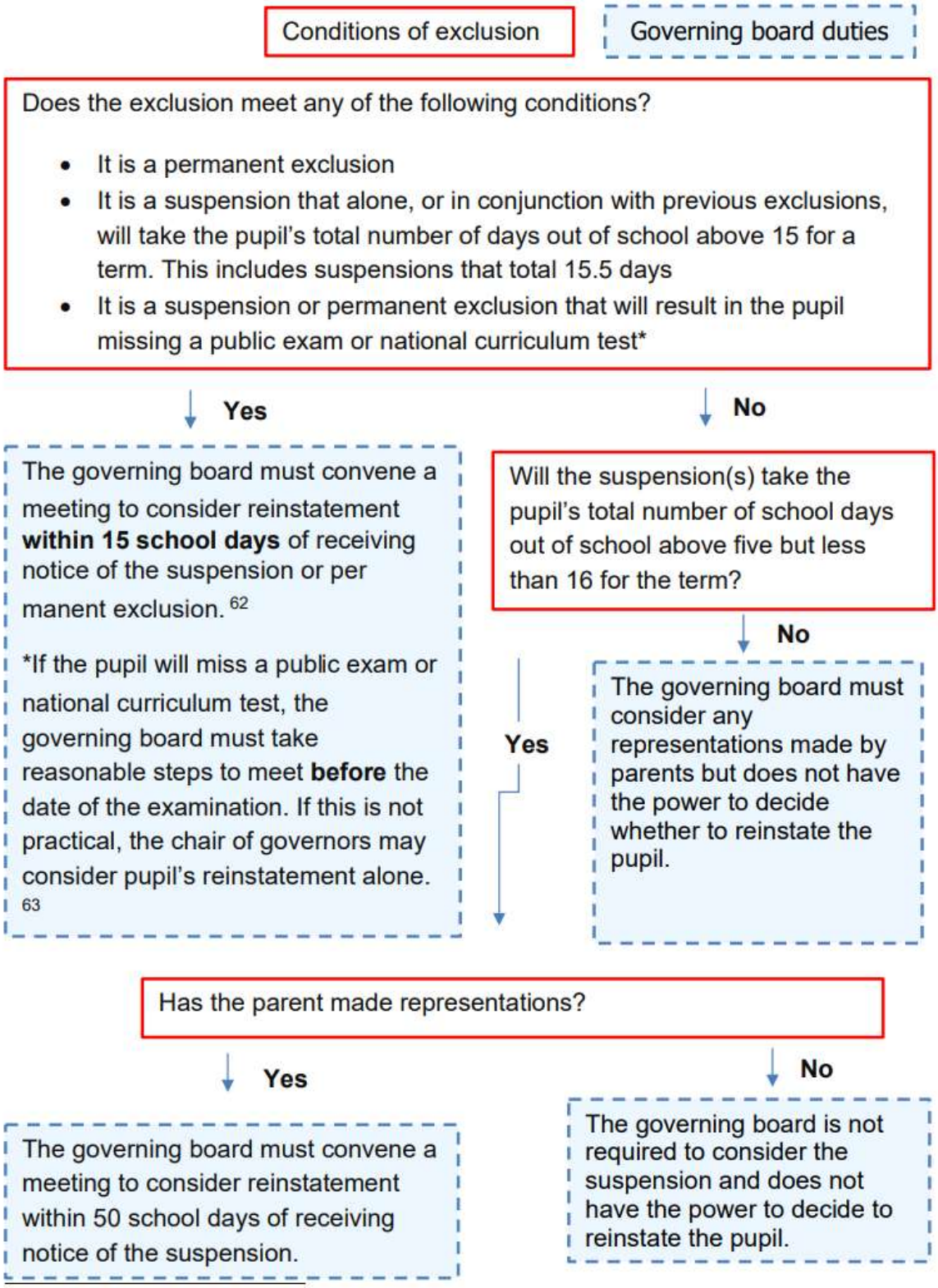
Where relevant, it will be for schools to confirm the details of where the parents' application for an independent review panel should be sent. This is normally the clerk of the independent review panel.

In providing details of the role of the SEN expert, the academy committee should refer to the statutory guidance provided to SEN experts in paragraphs 155 to 158.

Where the academy committee decides to uphold an exclusion they should draw the attention of parents to relevant sources of free and impartial information that will allow them to make an informed decision on whether and, if so, how to seek a review of the decision. This information should be included in the letter notifying parents of a decision to uphold an exclusion and should include:

- a link to this statutory guidance on exclusions: exclusion guidance ;
- a link to guidance on making a claim of discrimination to the First-tier Tribunal http://www.justice.gov.uk/tribunals/send/appeals;
- a link to the Coram Children's Legal Centre: www.childrenslegalcentre.com 08088 020 008; and,
- where considered relevant by the academy committee, links to local services, such as Traveler Education Services or the local parent partnership (www.parentpartnership.org.uk).

Appendix 6: A summary of the Board of Director's duties to review the Principal's exclusion decision – (set out as Governing Body in this diagram)



Appendix 7: Exclusion Checklist for Board of Directors

Reviewing Individual Pupil Exclusions: a checklist for Academy representatives

I. Academy Behaviour Policy

	Yes	No
• Has the policy been updated recently?	☐	☐
• Were the parents and pupil consulted?	☐	☐
• How is the policy publicised to parents?		

……..
……..

• Does it clearly describe the behaviour which may lead to exclusion?	☐	☐
• Does it explain the steps the school will take to support pupils who exhibit challenging behaviour?	☐	☐

II. Has the Academy considered alternatives to exclusion?

Has the school tried to support the pupil so that the likelihood of further incidents of poor behaviour is reduced (as opposed to punishment for the behaviour)? If so, how?

• Restoration: giving the pupil the opportunity to redress the harm done to the victim (staff member or pupil(s)).	☐	☐
• Mediation: bringing parties together with an impartial facilitator.	☐	☐
• Internal seclusion: removing the pupil to a designated area of the school for prescribed limited periods to defuse situations.	☐	☐
• Managed move to another school.	☐	☐
• Evidence of involvement of specialist agencies (e.g. LA if pupil is at risk of further exclusion, additional needs teacher or educational psychologist?)	☐	☐
• Interim review if pupil has a statement of special educational need.	☐	☐

• Other ……

……

III. Process

In reviewing cases of permanent exclusion, the *Board of Directors should be clear on whether the permanent exclusion is for a one-off or series of incidents. The letter from the Principal to the parents must specify this. (See model letter 4 in

**Department for Education Guidance). *Academy representatives' disciplinary committee **Department for Education-exclusion guidance

Evidence:

- What written evident exists to support the Principal's decision?

……

……

……

	Yes	No
• Did an investigation take place prior to the decision to exclude permanently?	☐	☐
• Did the pupil give his/her version of events prior to the decision being taken?	☐	☐
• Was there provocation?	☐	☐
• In cases of persistent disruption, was the pupil made aware of the possibility of permanent exclusion.	☐	☐
If so when: ……..		
• In drug related cases, has the academy's policy on drug related incidents been followed?	☐	☐

IV. Specific Vulnerable Pupils

i. Pupils in Care:

Have the social worker, carers and Virtual school been consulted prior to the permanent exclusion? ☐ ☐

ii. Pupils with Special Educational Needs:

At which stage of SEN Code of Practice is the pupil?

Has the school requested a statutory assessment? ☐ ☐

When? ……

iii. For pupils with a statement of SEN/EHCP:

Did the school seek an interim review? ☐ ☐

Did the school find out whether the arrangements to support the pupil could be changed? ☐ ☐

iv. Is the pupil disabled as defined by law? ☐ ☐

Does the exclusion relate to the pupils disability? ☐ ☐

Was the pupil treated less favourably? ☐ ☐

v. Race Discrimination

Is there any evidence that the pupil has been discriminated against?
Directly ☐ ☐
Indirectly ☐ ☐
Victimised ☐ ☐

Appendix 8: Return to the academy meeting pro-forma

Fixed period Exclusion: Return to Academy Meeting

Pupil:		Year Group:	
Date of Meeting:			
Attendees:			
Non-attendance (with reasons if known):			
Reason(s) for fixed period exclusion:			
Work set returned?	❑		
Main discussion points:			
Has the Academy Behaviour Contract been signed?	❑		
Actions to minimise the chances of repeat suspensions			
Action		By whom	By when
We (all parties at this meeting) agree that this is a correct record of the meeting and agreed actions.			
Parent:			
Pupil (if applicable):			
Academy Staff:			
Director (if applicable):			

Appendix 9: Guidance to the Academy Trust's duty to arrange an independent review panel

Statutory guidance to Academy Trusts on arranging a date and venue for a review

Academy Trusts must take all reasonable steps to ensure the venue for the review is appropriate, accessible to the parties, and has a suitable area for the parties to wait separately from the panel before the review.

Where the issues raised by two or more applications for review are the same, or connected, but the panel does not combine the reviews the local authority / Academy Trust should take reasonable steps to ensure fairness.

Statutory guidance to local authorities and Academy Trusts on appointing independent review panel members

Every care should be taken to avoid bias or an appearance of bias. The Academy Trust should request that prospective panel members declare any conflict of interest at the earliest opportunity.

Where possible, panel members who are academy representatives or Principals should reflect the phase of education (primary / secondary) and type of school from which the pupil was excluded, for example: special school; boarding school; PRU; Academy or maintained school.

The Academy Trust should consider whether the chair should be someone with a legal qualification or other legal experience. This is particularly important where a clerk will not be providing legal expertise to the panel.

In order to meet their duties within the statutory time frame, local authorities / Academy Trusts should identify a number of eligible individuals in each of the different categories required to constitute an independent review panel in advance of an application for a review.

Statutory guidance to local authorities on appointing an independent review panel clerk

The clerk should not have served as clerk to the academy committee meeting.

In addition to the training required by law, clerks should have an up-to-date understanding of developments in case law, legislation and guidance which are relevant to exclusion.

Where a clerk is not appointed, the local authority / Academy Trust should consider what additional steps it may need to take to ensure that the independent review panel is administered properly.

Statutory guidance to the clerk on preparing for an independent review

The clerk should identify in advance of the meeting whether the pupil will be attending. Where an excluded pupil is attending the hearing, consideration should be given in advance as to the steps that will be taken to support his / her participation. If the excluded pupil is not attending it should be made clear that he / she may feed in their views through a representative or by submitting a written statement.

In order to review the academy committee's decision the panel will generally need to hear from those involved in the incident, or incidents, leading to the exclusion. The clerk should also try to ascertain whether an alleged victim, if there is one, wishes to be given a voice at the review. This could be in person, through a representative or by submitting a written statement.

In the case of witnesses who are pupils of the school it will normally be more appropriate for the panel to rely on written statements. Pupils may appear as witnesses if they do so voluntarily and with their parents' consent. In such cases, that pupil's parents should be invited to attend the meeting in support of their child.

Where character witnesses are proposed the clerk should seek the agreement of the panel, but this should be allowed unless there is good reason to refuse.

All written witness statements should be attributed, signed and dated, unless the school has good reason to wish to protect the anonymity of the witness, in which case the statement should at least be dated and labelled in a way that allows it to be distinguished from other statements. The general principle remains that excluded pupils are entitled to know the substance behind the reason for their exclusion.

Parties attending the hearing have the right to be represented. Representatives may make written or oral representations to the panel. If any of the parties wish to bring more than one friend or representative, the clerk should seek the panel's agreement in advance, having regard to a reasonable limit on numbers attending the review. However, all parents may attend, if they wish to do so, and each can make representations and be represented.

In addition to written witness statements, the clerk should request written evidence from the school in order to circulate it in advance of the meeting, such as policies and documents of the school which the academy committee would reasonably have been expected to take account of in reaching their decision on the exclusion.

Where the school's case rests largely or solely on physical evidence, and where the facts are in dispute, then the physical evidence, if practicable, should be retained and be available to the panel. Where there are difficulties in retaining physical evidence, photographs or signed witness statements should be used.

The clerk should notify the panel where requested documents have not been provided so that the panel can take a decision on whether to adjourn the hearing.

Statutory guidance to Academy Trusts on appointing a SEN expert

The SEN expert should be a professional with first-hand experience of the assessment and support of SEN, as well as an understanding of the legal requirements on schools in relation to SEN and disability. Examples of suitable individuals might include educational psychologists; specialist SEN teachers; special educational needs coordinators (SENCOs); and behaviour support teachers. Recently retired individuals are not precluded from fulfilling this role, though the Academy Trust would need to assure themselves that the individual had a good understanding of current practice and the legal requirements on schools in relation to SEN.

Whilst individuals are not automatically taken to be partial simply because they are an employee of, or contracted by, the Academy Trust, they should not have had any previous involvement in the assessment or support of SEN for the excluded pupil, or

siblings of the excluded pupil. The Academy Trust should request that prospective SEN experts declare any conflict of interest at the earliest opportunity.

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

It is for the local authority / Academy Trust to determine the amount of any payment in relation to the appointment of the SEN expert, such as financial loss, travel and subsistence allowances.

Statutory guidance to independent review panel members on the conduct of an independent review panel

The chair should outline the procedure to be followed and explain to all parties that the panel is independent of the Academy Trust.

The panel should support all parties to participate in the review and ensure that their views are properly heard. The independent review should be conducted in an accessible, non-threatening and non-adversarial manner.

It is for the panel to decide whether any witnesses should stay for the rest of the review, but they should not be present before giving evidence.

In the interests of propriety, care should be taken to ensure that no party, other than the clerk, is present with the panel in the absence of the other parties. This includes the SEN expert. The panel should ask all parties, apart from the clerk, to withdraw before making a decision. The clerk may stay to help the panel by referring to the notes of the meeting and providing advice on the wording of the decision letter.

Statutory guidance to independent review panel members on coming to a decision

When considering the academy committee's decision in light of the principles applicable in an application for judicial review, the panel should apply the following tests:

- Illegality – did the Principal and / or academy committee act outside the scope of their legal powers in taking the decision to exclude?
- Irrationality – was the decision of the academy committee not to reinstate the pupil so unreasonable that it was not one a sensible person could have made?
- Procedural impropriety – was the process of exclusion and the academy committee's consideration so unfair or flawed that justice was clearly not done?

Procedural impropriety means not simply a breach of minor points of procedure but something more substantive that has a significant impact on the quality of the decision making process. This will be a judgement for the panel to make but the following are examples of the types of things that could give rise to procedural impropriety: bias; failing to notify parents of their right to make representations; the academy committee making a decision without having given parents an opportunity to make representations; failing to give reasons for a decision; or being a judge in your own

cause (for example, if the Principal who took the decision to exclude were also to vote on whether to uphold the exclusion).

Where the criteria for quashing a decision have not been met the panel should consider whether it would be appropriate to recommend that a academy committee reconsiders their decision not to reinstate the pupil. This should not be the default option, but should be used where evidence or procedural flaws have been identified that do not meet the criteria for quashing the decision but which the panel believe justify a reconsideration of the academy committee's decision.

In all other cases the panel should uphold the exclusion.

Guidance on financial readjustment

Where the panel has quashed the academy committee's decision, the panel should order that the Academy must make a payment directly to the local authority in which the Academy is located, unless the academy committee offer to reinstate the pupil.

The panel should order that the payment is due automatically if the academy committee has not offered to reinstate the excluded pupil within 10 school days of being notified of a direction to reconsider. The panel does not have to reconvene to issue this order.

Statutory guidance to SEN experts on their conduct during an independent review panel

The SEN expert's role is analogous to an expert witness, providing impartial advice to the panel on how special educational needs might be relevant to the exclusion. The SEN expert should base their advice on the evidence provided to the panel. The SEN expert's role does not include making an assessment of the pupil's special educational needs.

The focus of the SEN expert's advice should be on whether the school's policies which relate to SEN, or the application of these policies in relation to the excluded pupil, were legal, reasonable and procedurally fair (in line with the explanations in paragraph 148). If the SEN expert believes that this was not the case he / she should, where possible, advise the panel on the possible contribution that this could have made to the circumstances of the pupil's exclusion.

Where the school does not recognise that a pupil has SEN, the SEN expert should advise the panel on whether he / she believes the school acted in a legal, reasonable and procedurally fair way with respect to the identification of any special educational needs that the pupil may potentially have, and any contribution that this could have made to the circumstances of the pupil's exclusion.

The SEN expert should not criticise a school's policies or actions simply because he / she believes a different approach should have been followed or because another school might have taken a different approach.

Statutory guidance to the clerk and local authority / Academy Trust on the record of the proceedings of a review panel

The clerk to a review panel should ensure that minutes of the proceedings are taken, including details of the attendance, the voting and the decision.

The minutes are not public documents but should be retained by the Academy Trust for a period of at least five years, as they may need to be seen by a court or (in the case of maintained school) by the Local Government Ombudsman. The Academy Trust should be aware of its duties under the Freedom of Information Act 2000 and the Data Protection Act 1998 when retaining information.

Statutory guidance to the independent review panel and clerk on notifying parties of the outcome of the review

If the panel upholds the permanent exclusion, the clerk should immediately report this to the local authority. If the pupil lives outside the local authority in which the school is located, the clerk should make sure that the 'home authority' is also informed in writing without delay of the outcome of the review. This includes any situation where parents withdraw or abandon their application for a review.

The local authority's role in overseeing the financial readjustment / payment

The Academy should be expected to make payment within 28 days of the notification of a direction from the panel.

If the Academy fails to comply with its legal requirement to pay following a direction from an independent review panel then the local authority will be responsible for enforcing this requirement. However, the local authority should also inform the Education Funding Agency.

If an excluded pupil has been found a place at another school by the time the academy committee has reconsidered and decided not to reinstate the pupil, the local authority may, if it chooses, pass the amount of the financial readjustment to the pupil's new school.

Statutory guidance to Principals, governing bodies, independent review panel members and clerks on police involvement and parallel criminal proceedings

Principals need not postpone taking a decision on an exclusion solely because a police investigation is underway and / or any criminal proceedings may be brought. In such circumstances, Principals will need to take a decision on the evidence available to them at the time.

Where the evidence is limited by a police investigation or criminal proceedings, Principals should give particular consideration to ensuring that the decision to exclude is fair. However, the final decision on whether to exclude is for the Principal to make.

Where the academy committee is required to consider a Principal's decision in these circumstances they cannot postpone their meeting and must decide whether or not to reinstate the pupil on the evidence available.

The fact that parallel criminal proceedings are in progress should also not directly determine whether an independent review panel should be adjourned. Relevant factors for the panel to consider will include:

- whether any charge has been brought against the pupil and, if so, what the charge is;
- whether relevant witnesses and documents are available;

- the likelihood of delay if the hearing were adjourned and the effect it may have on the excluded pupil, the parents, any victim or the school; and
- whether an adjournment or declining to adjourn, might result in injustice.

Where a panel decides to adjourn, the clerk (Academy Trust where a clerk is not appointed) will be responsible for monitoring the progress of any police investigation and / or criminal proceedings, as well as for reconvening the panel at the earliest opportunity. If necessary the panel may adjourn more than once if necessary but consideration must be given to the effect of adjournment on the parties to the review, the excluded pupil and any victim.