



KING EDWARD VI
SHELDON HEATH ACADEMY

EXCLUSIONS POLICY

Other relevant policies:

Behaviour Policy

Staff Safeguarding Children Policy

Child Protection Policy

Keeping Children Safe in Education: Statutory Guidance for Schools and Colleges – Part 1

Child Protection and Safeguarding – Sharing Information Guidance

The principal legislation to which this policy relates is:

- The Education Act 2002, as amended by the Education Act 2011;
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012;
- The Education and Inspections Act 2006; and
- The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007.

Friendship
Integrity Benevolence
Honesty **Equality**
Respect Community
Tolerance **Aspiration**
Our values
Humility Personal responsibility
Justice **Dignity Ambition**
Co-operation **Humanity**
Excellence **Embracing diversity**
Belief Empathy **Kindness**
Understanding **Charity**
Compassion

This policy was adopted by the Student Welfare Committee in June 2017.
Next review due Summer Term 2019, or earlier if the need arises.

1. Rationale

King Edward VI Sheldon Heath Academy is committed to developing responsible, aspirational, independent, happy and well-rounded young people with the self-belief to reach their goals. Our work will be underpinned by our core values and driven by our unequivocal belief in equality and tolerance. We will secure this through inspirational and enthusiastic teaching, the provision of a broad, challenging curriculum and excellent support and care. We want to ensure our young people fulfil and exceed their potential, be proud of who they are, be committed to lifelong learning and leave well-equipped to navigate their way through the challenges of the 21st Century; positively contributing to society both economically and socially.

The Academy's Behaviour policy emphasises positive strategies and, for the most part, the Academy environment is one of cooperation and shared responsibility. However, some incidents of unacceptable behaviour are not satisfactorily resolved through the normal channels and exclusions have to be considered as a last resort.

2. Key Requirements/ Legal Duties

This policy responds to the requirements of the Education Act 2002; all schools must have policies on student discipline and exclusion, which must be available to all parents and prospective parents. Parents and carers have the right to appeal against the decision to exclude a student. This policy is drawn using the guidance provided by the Department for Education (DfE) produces for the process of exclusion (Exclusion from maintained schools, academies and pupil referral units in England, February 2015).

3. Key Principles

This document deals with the policy and practice which informs the Academy's use of exclusion. It is underpinned by the shared commitment of all members of the Academy community to ensure:

- The best possible education for all students at the Academy, whatever their background or ability.
- The safety and well-being of all members of the Academy's community, and to maintain an appropriate education environment in which all can learn and succeed.
- That students have the right to expect that their learning should not be disrupted by others.

The Academy's Behaviour policy emphasises the students' entitlements and responsibilities.

4. General Principles

The Governing Body has determined that the Academy will use exclusions, albeit sparingly, in response to serious breaches of the Academy's behaviour policy and where allowing the student to remain at the Academy would seriously harm the education or welfare of the student or others at the Academy. The decision to exclude a student may thus be taken in the following circumstances:

- In response to a serious breach, or persistent breaches, of the Academy's Behaviour Policy and Code of Conduct
- If allowing the student to remain at the Academy would seriously harm the education or welfare of the student or others in the Academy.

Only the Principal (or, in the absence of the Principal, the Vice Principals) has authority to exclude a student from the Academy.

Exclusions whether fixed-term or permanent may be used in response to any of the following, all of which are examples of unacceptable conduct and breach the Academy's Behaviour Policy:

- Physical assault against a student
- Physical assault against an adult

- Verbal abuse/threatening behaviour against student
- Verbal abuse/threatening behaviour against an adult
- Bullying
- Racist abuse
- Sexual misconduct/ Indecent behaviour
- Drugs, alcohol.
- Substance misuse
- Damage
- Theft
- Persistent disruptive behaviour
- Weapons related
- Posing a health and safety threat
- Arson

Also in line with the exclusion policy, the Academy will not tolerate persistent and defiant behaviours over time where sanctions and interventions have failed to bring about positive improvement. In these circumstances, a student's behaviour would be deemed to be seriously harming the education and welfare of the student or others at the Academy, thus placing the student at high risk of permanent exclusion.

This is not an exhaustive list and there may be other situations where the Principal judges that exclusion is an appropriate sanction.

5. Types of Exclusion

There are two types of exclusion:

- Fixed period
- Permanent

Fixed Period Exclusion

A student can be excluded from the Academy for one or more fixed periods not exceeding 45 school days in any one school year. Full time education must be provided by the Academy after the sixth continuous day of any fixed period exclusion.

Permanent Exclusion

A student can be permanently excluded from the Academy. The decision to exclude permanently is a serious one. It is usually the final step in a process of 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 student and is used as a last resort.

Although permanent exclusion will only be used as a last resort, when all other reasonable steps have been taken and when allowing the student to remain at the Academy would be seriously detrimental to the education and/or welfare of other students or teachers, there may be exceptional circumstances where, in the judgement of the Principal, it is appropriate to exclude permanently for a first or 'one-off' offence. Thus permanent exclusion may, on rare occasions, be the only possible response to a single incident of very extreme misconduct.

When it is necessary to exclude a student, parents will be contacted by telephone, if possible, at the earliest possible opportunity. The exclusion will always be confirmed by a letter which will set out the reasons for the exclusion and also inform the parents of their rights to make representations to the Governing Body. Each incident of exclusion will be recorded in a standard format (Appendix 2)

6. Exercise of Discretion

The Principal will always look at the particular circumstances of each case. In considering whether permanent exclusion is the most appropriate sanction, the Principal will consider:

- The gravity of the incident, or series of incidents, and whether it constitutes a serious breach of the Academy's Behaviour Policy.
- The effect that the student remaining at the Academy would have on the education and welfare of other members of the school community.

In line with its statutory duty, these same two tests of appropriateness will form the basis of the deliberations of the Governors Student Welfare Committee, when it meets to consider the Principal's decision to exclude.

7. Behaviour outside the Academy

Students who breach the Academy's Behaviour Policy whilst on school 'business' such as trips and journeys, sports fixtures or a work-experience placement will be dealt with in the same manner as if the incident had taken place at the Academy. For incidents that take place outside the Academy and not on school business, this policy will still have effect if there is a clear link between that behaviour and maintaining good behaviour and discipline among the student body as a whole. This includes behaviour in the immediate vicinity of the Academy or on a journey to and from the Academy.

8. Special Educational Needs and Disabilities Students and Children Looked after

When considering whether to exclude a student with SEND, the Academy pays due regard to government guidance which states that schools should try every practicable means to maintain a student with SEND in school and should seek local authority and other professional advice as appropriate; the Academy will permanently exclude students with SEND statements only in exceptional circumstances.

Where the Academy has concerns about the behaviour, or risk of exclusion, of a child with additional needs, a pupil with a statement of SEN or a looked after child it will, in partnership with others (including the local authority as necessary), consider what additional support or alternative placement may be required. This could involve assessing the suitability of provision for a student's SEN. Where a pupil has a statement of SEN, the Academy will consider requesting an early annual review or interim / emergency review.

9. Challenging exclusion

The Academy's letter informing of an exclusion also informs how to challenge the decision.

Challenging a fixed period exclusion

A fixed period exclusion can be challenged if a student has been excluded for more than 5 school days in a term or an exclusion will mean they will miss a public exam or national curriculum test. For exclusions of 5 school days or less, parents can ask the governing body to consider their views.

Challenging a permanent exclusion

A permanent exclusion can be challenged with the governing body. If they agree with the exclusion, an appeal can be made to the local council or the Academy Trust.

Discrimination and other complaints

A claim can be made to a court or a tribunal if it is believed that a child has been discriminated against. The Equality Advisory Support Service can provide help and advice.

For more general complaints the Academy's complaints process must be followed.

10. Procedures for exclusions

The procedures for exclusions are presented in detail in appendix 1. Sample letters and other documents relating to exclusions are in appendix 2. Statutory guidance is on appendix 3.

Risk of prosecution if child is found in public place

For the first 5 school days of an exclusion, it's the parents'/carers' responsibility to make sure that the excluded child isn't in a public place during normal school hours unless there is a good reason. Failure to do so may lead to a prosecution.

11. Monitoring, Intervention and Support

There is a range of strategies in place at the Academy to address behaviour that may lead to exclusion. Students who are identified as at risk of exclusion will be offered additional provision to meet their individual needs. These additional measures may include:

- Engaging with parents.
- Mentoring.
- Placement on a daily report.
- Detentions or other sanctions.
- A change of class or set.
- Curriculum alternatives.
- A managed move to another school.
- Consideration with colleagues, of possible interventions within school.
- Assessment of Special Educational Needs, including possible placement in a special school.
- Allocation of a key worker from the SEND team.
- Sessions with the Academy's counsellor.
- Implementation of a Pastoral Support Programme.
- Referral to other relevant agencies.

12. Roles and Responsibilities

In addition to the specific duties in appendix 1:

- The Governing Body is responsible for deciding whether or not to confirm the Principal's decision to exclude a student.
- The Principal is responsible for ensuring the fair and consistent implementation of the policy and for all decisions on whether or not to exclude a student.
- The Senior Leader (Student Development) is responsible for:
 - Monitoring the implementation of this policy, including recording and analysing the profile of excluded students.
 - Ensuring that education is provided for any student from day six of a fixed term exclusion, depending on the circumstances.
 - Ensuring the prompt and effective administration of all matters relating to an exclusion.
- The Heads of Year are responsible for the arrangements to support students in danger of exclusion and for the reintegration of students returning to the Academy after a fixed-term exclusion. They are also responsible for ensuring that work is provided for all excluded students.
- All staff are responsible to providing appropriate work to the Heads of Year for students excluded for two or more days.
- Parents are responsible for excluded students to complete the work set and for bringing this work to the re-admission meeting.

13. Recording and Monitoring

All exclusions will be recorded according to guidelines from the DfE. Exclusion data, analysed by sub-group, will be discussed with senior leaders and presented to every Student Welfare meeting. This analysis and subsequent discussions will help the Academy further refine systems and processes where appropriate to ensure that students are effectively supported in developing the responsible behaviours that will allow them to fully participate in the Academy's life.

Appendix 1: Procedures for exclusion

A) Decision to Exclude

Action to be invoked by Senior Staff in Serious Disciplinary Matters

1. When a serious incident occurs, a senior member of staff, ie member of the Senior Leadership Team, must interview students. If the nature of the incident is extremely serious then at least two staff members should be present to conduct the interview. The student should be questioned and given ample opportunity to give a response. The student should be encouraged to provide a written statement of what happened and offered the opportunity to sign this as an authoritative record of events. At this stage the report will help to enable KESH Academy to decide on what further action should be undertaken.
2. In discharging their duties the Principal and Governors of KESH Academy will have regard to DfE guidance on exclusions.
3. A decision to exclude a student will only be taken
 - In response to serious breaches of KESH Academy's Behaviour Policy.
 - If allowing the student to remain in KESH Academy would seriously harm the learning or welfare of the student, other students or staff in the Academy
 - In cases where there has been a major breach of normal expectations of conduct [and/or a breach of the criminal law]
4. Before excluding a student, in most cases a range of alternative strategies will have been tried. Where a one-off incident of sufficient gravity has taken place, this may not apply.

Responsibilities of the Principal

5. The Principal alone (or his/her designate, if s/he is absent) has the power to exclude students.
6. In considering the exclusion of a student the Principal should ensure that the following range of activities are carried out:
 - Undertake a thorough investigation.
 - Consider all the relevant facts and firm evidence to support the allegations.
 - Take into account KESH Academy's Behaviour Policy, including the Equal Opportunities and Anti Bullying policies.
 - Check whether an incident appeared to be provoked by racial or sexual harassment.
 - Ensure that all students involved have the opportunity to give their version of events.
 - Consult other people or agencies except where they may be involved in any review of the exclusion.
 - Ensure time has been given to addressing and supporting the student's individual problems within the capabilities of KESH Academy.
7. Before deciding to exclude a student permanently the Principal will first try a range of strategies as outlined in the Behaviour Policy, including fixed term exclusion. Only when other strategies have been tried without success will the Principal consider permanent exclusion. Except, or notwithstanding (8) below, where a one-off incident of sufficient gravity has taken place.
8. There are occasions when the severity of the offence will merit permanent exclusion, even when there has been no record of poor behaviour.

9. The Principal may exclude a student for up to 45 school days in any academic year. Any exclusion beyond 45 school days will be permanent. However, before that point is reached the Principal will have held discussions through the Sharing Panel to arrange an appropriate placement in another school or Pupil Referral Unit (PRU).
10. The Principal will aim for the shortest possible period of exclusion but however brief an exclusion plan will be made to:
 - enable the student to continue their education;
 - use the time to address the student's problems;
 - examine the process of reintegration.

B) Exclusions

Informing Parent(s)/carer(s) about the Exclusion

11. The Principal will make sure that the Parent(s)/carer(s) are notified immediately by telephone which will be followed by a letter within one school day. An exclusion will normally begin on the next school day.
12. Letters about fixed period and permanent exclusions will explain:
 - Why the Principal decided to exclude the student
 - The arrangements for enabling the student to continue their education, including setting and marking the student's work
 - The Parent(s)/carer(s) right to state their case to the Governing Body's Disciplinary Panel
 - Who the Parent(s)/carer(s) should contact if they wish to state their case (usually the Clerk to the Panel) and how
 - The latest date the Parent(s)/carer(s) can put a written statement to the Disciplinary Panel.
 - The Parent(s)/carer(s) right to see and have a copy of their child's record
 - If the exclusion is for a **fixed period**, the length of the exclusion and the date and time the student should return to KESH Academy
 - If the exclusion is **permanent**, the date the permanent exclusion takes effect, and details of any relevant previous warnings, fixed period exclusions or other disciplinary measures taken before the present incident.
 - The letters will also draw attention to sources of free and impartial information (a link to the statutory guidance on exclusions: exclusions guidance; a link to the Coram Children's Legal Centre: www.childrenslegalcentre.com 08088 020 008; and where considered relevant by the Principal, links to local services).
13. If the Principal wishes to extend a fixed period exclusion or convert a fixed period exclusion into a permanent exclusion, the Principal will again write to the Parent(s)/carer(s) explaining the reasons and making the other points above. Where an exclusion is extended there will be a new right for the Parent(s)/carer(s) to state their case to the Student Welfare Committee.

Informing the Student Welfare Committee

14. The Principal will inform the Chairman of the Governing Body's Student Welfare Committee of:
 - All permanent exclusions.
 - All exclusions which result, separately or in total, in the student missing more than five school days in any one term, or which deny students the chance to take a public examination.

Responsibilities of the Governing Body

15. The Governors do not have the right to exclude a student. Governors will review the use of exclusion at KESH Academy regularly. The Governing Body may delegate their functions with respect to the consideration of an exclusion decision to a designated sub-committee consisting of at least three Governors; these three Governors will form the Disciplinary Panel. The Governing Body will also establish an independent Appeal Panel when the need arises. The Governing Body must ensure that parents/carers, the Principal and a representative from the LA (in the case of maintained schools) are invited to attend an exclusion meeting and must make reasonable endeavours to arrange the meeting for a date and a time that is convenient for all but in compliance with the relevant statutory time limits (however, its decision will not be invalid simply on the grounds that it was not made within these limits).

The Role of the Disciplinary Panel in Fixed Term Exclusion Cases

16. The Disciplinary Panel will consist of three Governors who will review the use of exclusion within KESH Academy, including considering the views of the Parent(s)/carer(s) of an excluded student, and deciding whether or not to confirm exclusions of more than five school days or those where a student would miss an opportunity to take a public examination. The Governing Body will appoint a clerk to the Disciplinary Panel to provide advice on the exclusions process and to handle the administrative arrangements for considering exclusions.
17. If the exclusion is for five school days or fewer the Disciplinary Panel will not direct reinstatement but will consider any statement from the parent(s)/carer(s). If the exclusion causes the student to miss sitting a public examination the Disciplinary Panel will meet before the public examination. Where a public examination is concerned, if it is not practical for the Disciplinary Panel to meet, the Chair of the Panel will consider the exclusion. Alternative arrangements to allow an excluded student to take public examinations will be considered.
18. In cases of:
- Permanent exclusions and fixed period exclusions converted to permanent exclusions;
 - Fixed period exclusions totalling more than five school days in any one term, where the parent expresses a wish to make formal representations to the governing body.
 - Exclusions which would result in a student missing a public examination.

The Disciplinary Panel must meet to:

- Consider the circumstances in which the student was excluded;
- Consider any representations about the exclusion made by the parent and by the LA; and
- Consider whether the student should be reinstated immediately, reinstated by a particular date or not reinstated.

In the case of a fixed-period exclusion which would result in the student being excluded from the school for a total of five days or less in any one term, the discipline panel must meet to consider any representations made by the parent. In such cases, the governing body cannot direct reinstatement of the student.

19. The regulations set statutory time limits for the discipline panel's consideration of exclusions.
- In the case of permanent exclusion and one or more fixed-term exclusions totalling more than 15 days in any one term (where parents wish to make representation) the panel must consider them no earlier than 6 school days and no later than 15 schools days after receiving notification of the exclusion.
 - In the case of one or more fixed-term exclusion totalling more than 5 days but not more than 15 schools days in any one term (where the parent wishes to make

representations) the panel must convene between the 6th and the 50th school day after receiving notification of the exclusion.

- Where a student may miss a public examination as a result of the exclusion, the panel must, if practical, consider the exclusion before the student is due to take the examination.
- In the case of a fixed-term exclusion which would result in a student being excluded for a total of 5 days or less in a term (and the parent has made representations to the governing body), there is no statutory time limit, but the panel would be expected to meet within a reasonable timescale.
- In reaching their decision on whether to direct reinstatement, the panel are required to have regard to any guidance given by the Secretary of State. They should have regard to any representations made by the parent, and whether the Principal has complied with the exclusions procedure and has had regard to the Secretary of State's guidance. If they decide that a student should not be reinstated, they must inform the parent, the Principal and the LA of their decision. In the case of a permanent exclusion, they must notify the parent in writing of their decision and the reason for it. Their letter must also advise the parent of his or her right to appeal against their decision; whom to contact; the last date for lodging an appeal; and that the notice of appeal should set out the grounds of appeal.

20. Unless there are strong reasons to refuse, the chair of the Disciplinary Panel should allow the excluded student to attend the meeting and present their case if the parent(s)/carer(s) and the student ask for this. But the parent(s)/carer(s) formally remain the appellant unless the student is 18 or over.

Procedure at the meeting

21. If the student is back in the Academy before the Disciplinary Panel meets, the meeting still enables the parent(s)/carer(s) to give their views. The Disciplinary Panel can also consider whether more information should be added to the student's record.

22. If the student is still excluded when the meeting takes place, the Disciplinary Panel should decide whether to direct re-instatement. In reaching their decision the panel should:

- consider the parent(s)/carer(s) statements;
- have regard to the guidance on the appropriate use of exclusion from DfE and in KESH Academy's Behaviour Policy, and consider whether the Principal has tried sufficient approaches to improve a student's behaviour before resorting to exclusion, and whether any further strategies might be an alternative to exclusion.

The Role of the Disciplinary Panel in Permanent Exclusion Cases

23. For permanent exclusion, the Disciplinary Panel should normally satisfy itself that all possible strategies to improve a student's behaviour were tried without success, strategies should include those in DfE guidance, including a Pastoral Support Programme. For children with statements of SEN, revising the statement might be better than resorting to exclusion.

24. For permanent exclusions, the Disciplinary Panel will consider the exclusion and decide whether the student should be reinstated. Such consideration will take account of the student's disciplinary record and the likely impact of their continued attendance.

25. The Disciplinary Panel may not attach conditions to the re-instatement of a student.

26. If the Disciplinary Panel upholds the Principal's decision to exclude a student permanently, it will write within one school day to the parent(s)/carer(s):

- giving the reasons for the decision;

- explaining the parent(s)/carer(s) right to appeal to an Independent Review Panel to which the parent(s)/carer(s) can make oral and written statements;
- giving the name and address of the person the parent(s)/carer(s) should contact if they wish to appeal, explaining that any notice of appeal should explain the grounds of appeal and stating the latest date for giving notice (15 school days from the date of the Disciplinary Panel's decision). The parent(s)/carer(s) has the right to appeal to the panel even if they did not make a case to the Disciplinary Panel.

27. If the Disciplinary Panel upholds a decision to exclude a student permanently it will notify the Local Authority in writing of this decision within one school day of the hearing. The Disciplinary Panel's decision on fixed term exclusions is final. In the case of permanent exclusions, parent(s)/carer(s) may appeal to an Independent Review Panel.

After the meeting – Fixed Term and Permanent Exclusions

28. A note of the Discipline Committee's views on the exclusion shall normally be placed on the student's record with a copy of the Principal's exclusion letter.

C) Independent Review Panels

Independent Review Panel Hearings

29. Parent(s)/carer(s) whose child is excluded permanently from KESH Academy have the right to appeal against the Disciplinary Panel's decision to uphold the exclusion. This appeal is made to the Independent Review Panel. The right of appeal is unrestricted, subject to the time limit.

30. The Independent Review Panel will comprise three independent panel members plus a clerk appointed by the Governing Body (the appointed clerk should not have served as clerk to the Governing Body). The appointed clerk must:

- 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 head teacher (where an excluding head teacher has left the school, the panel may use its discretion in deciding whether also to invite this person to make representations);
 - the governing body; and
 - the local authority (in the case of a maintained school or pupil referral unit).
- 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 governing body's decision;
 - the parents' application for a review; and
 - any policies or documents that the governing body was required to have regard to in making their decision.
- Give all parties details of those attending and their role, once the position is clear.
- Attend the review and ensure

31. No Governor, employee of the KESH Academy Trust or person who has had any connection with KESH Academy Trust or with the excluded student or with the incident leading to the exclusion, shall serve on the Review Panel. The members of the Panel will be people with experience in education in the area; at least one must be a lay member.

32. Any appeal must be lodged in writing to the Clerk to the Independent Review Panel within 15 school days from the date the parent(s)/carer(s) receives notice of the decision. Any application made outside of the legal time frame must be rejected by the local authority / Academy Trust. The panel should meet as soon as possible but normally within 15 days of the notification of appeal.
33. In the event of a permanent exclusion the Local Authority will be notified promptly once the exclusion is confirmed.

Arranging a Review Hearing

34. The letter from the Clerk to the Disciplinary Panel will inform the Parent(s)/carer(s) of their right to appeal against the decision of the Disciplinary Panel not to re-instate the permanently excluded student. The letter will give the name and contact details for the Clerk to the Review Panel (who will not be the same person as the Clerk to the Disciplinary Panel) and explain that the Parent(s)/carer(s)'s notice of appeal must be in writing and set out the grounds of appeal. The letter will tell the parent(s)/carer(s) that the final date for lodging an appeal will be 15 school days from the date the parent(s)/carer(s) receives notice.
35. The day on which the parent(s)/carer(s) is given notice will be taken to be the second school day after the date of posting by registered post, or where the notice is hand-delivered, the date of delivery (unless a different date of receipt can be demonstrated). No appeal will be accepted if it is made after the final date for lodging an appeal.
36. The Review Panel will not reinstate students purely on minor 'technicalities' relating to prior procedure, where they are persuaded on the merits of the case that the exclusion was justified and would not otherwise direct that the student should be reinstated. The Review Panel will rather consider afresh the question of whether the student should be reinstated.
37. The Review Panel will meet within 15 school days of the date the parent(s)/carer(s) lodges notice of appeal.
38. Those entitled to attend a hearing and present their case are:-
- The Parent(s)/carer(s), who may be represented by a legal or other representative.
 - The Principal, who may make oral representations.
 - A nominated member of the Disciplinary Panel, who may make oral representations.
 - A legal or other representative of the Disciplinary Panel.
39. The Principal and Governing Body may also make written representations. Wherever possible, the Clerk will make available all written evidence to the panel members and the Parent(s)/carer(s) four working days in advance of the hearing. The student, if s/he or his/her Parent(s)/carer(s) so request, will be allowed to attend the hearing and speak on his/her own behalf, unless there is good reason to refuse.

Role of the clerk

40. The Independent Review Panel will have a clerk who will serve as an independent source of advice on procedure for all parties to the appeal. The Governing Body will use its best endeavours to ensure that the clerk has some legal training and has experience in the conduct of appeal hearings. **They will not be the same person who served as a clerk to the prior Discipline Panel hearing.**

41. When the panel or parties withdraw in order that the panel may consider its decision, the clerk may remain with the panel, but only for the purpose of offering advice on procedure or law, and recording decisions and reasons.

Procedure at the hearing

The appeal hearing will not be held at KESH Academy. The Review Panel will do everything possible to establish an atmosphere of informality where the parties can present their cases effectively.

42. The remit of the Review Panel is to consider whether the student should be re-instated.

43. In considering an appeal, the panel will decide whether the student actually did what he/she is accused of doing. If more than one incident of misconduct is alleged, the panel will decide on each incident. If satisfied on the balance of probabilities that the student did what was alleged to have been done, then the panel will decide whether, considering all relevant factors, permanent exclusion was a reasonable response to that conduct. Relevant factors must include:

- The broader interests of other students and staff in KESH Academy, as well as those of the excluded student;
- KESH Academy's published Behaviour Rewards, Strategies and Sanctions Policy;
- Where other students were involved in the same incident and were also disciplined, the fairness of the permanent exclusion in relation to the sanctions imposed on the other students involved.

44. To reach a decision, the panel may need to hear evidence from those directly or indirectly involved, including the student. The Review Panel may not introduce new reasons for the exclusion. However, the parent(s)/carer(s) may put forward new information that may not previously have been available. If this happens, the Review Panel should be given an opportunity to respond.

45. The order of hearing will be notified in advance to the parties. At the start of the hearing the chairman or clerk will welcome the parties and introduce those present, pointing out that the panel is independent of KESH Academy and its governing body and that its decision is binding on them. The clerk will explain the order in which the parties entitled to be heard will state their case and that there will be an opportunity for questioning by the other parties afterwards.

46. The Review Panel members may also ask questions of the other parties to the appeal or of any witnesses who appear, in order to clarify an issue or to elicit more information. The aim will be for panel members to ask their questions at the end of each party's statement and following questions by the other parties.

47. The clerk may be called on to give legal or procedural advice to the Review Panel during the course of the hearing and when they retire to consider their decision.

48. The chairman will order proceedings and lead the Review Panel in establishing the relevant facts. If the parent(s)/carer(s) appear to be having difficulty in presenting their case, the chairman should intervene to assist them to ensure that their case is established and that factual matters not in dispute are clearly identified. The chairman will assist parent(s)/carer(s) who have English as a second language or who have literacy problems, and who may not have understood all the paperwork.

49. If the Review Panel wishes to vary the notified procedure, they should only do so after hearing the views of all the parties present and entitled to make representations.
50. Sufficient time will be allowed for each party to put its case. The Review Panel should ensure that parent(s)/carer(s) are given the opportunity to comment on relevant information obtained from the Governing Body. Care must be taken to ensure that no party attending the hearing is present alone with the Review Panel in the absence of the others.
51. In exceptional cases the panel may adjourn an appeal to a later date. If there is an adjournment, it is essential that no part of the proceedings take place other than in the presence of all the panel members.

Evidence and Witnesses

52. Where the Academy'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, if they wish to see it. Where there are difficulties in retaining physical evidence, photographs or signed witness statements are acceptable as evidence.
53. The Review Panel cannot compel witnesses to attend and any witnesses must therefore appear before it voluntarily. The Review Panel may wish to call witnesses who saw the incident or behaviour which gave rise to the exclusion. They may also wish to call a teacher or teachers (other than the Principal) who investigated the incident and interviewed students. The Principal has the right to make written representations to the panel and to appear and make oral representations.
54. Where adult witnesses are unwilling to appear in person or are unavailable, the panel must rely on their written statements, copies of which will have been circulated to all parties by the clerk before the hearing. In the case of witnesses who are students of KESH Academy, it will generally be appropriate for the panel to rely on their written statements. Students may, however appear as witnesses in person if they do so voluntarily and their parent(s)/carer(s) consent. All written witness statements must be attributed and signed, except in cases where the school has good reason to wish to protect the anonymity of students. In such cases the statement will not be attributed and some names may be blanked out. The general principle remains that someone accused of something is entitled to know the substance and the source of the accusation. If any witnesses are going to appear in person, all parties need to know the details in advance of the day of the hearing.
55. The calling of character witnesses is at the discretion of the panel, but should be allowed unless there is good reason to refuse. It is for the panel to decide whether any witnesses, having given evidence, should remain for the remainder of the presentation of the case.
56. If any of the parties intend to raise matters or produce documents at the hearing which are not covered by the statement of decision or the notice of appeal, these should be submitted to the clerk to the Review Panel in good time before the hearing. If substantial new issues are raised for the first time at the hearing, an adjournment may be necessary to allow all parties to consider the issues.
57. A Review Panel, when directing re-instatement, may specify a future date rather than an immediate return; perhaps to allow for support arrangements to be put in place. But the date of re-instatement should be reasonable in all the circumstances. The Review Panel cannot attach conditions to the re-instatement of a student.

58. Under no circumstances can an appeal continue if the number of panel members drops below three at any stage during the appeal. Once an appeal has begun, no panel member may be substituted by a new member for any reason. In the case of a five-member panel, if any member dies or is taken ill, the panel may continue, provided the two categories of member are still represented on the panel.

Record of the proceedings of a Review Panel

59. In addition to notes taken during appeals to help the panel's decision-making process (including a record of the Discipline Committee's decision and the reasons for it) the clerk to a Review Panel should keep brief notes of the proceedings, the attendance, the voting and the decision in such forms as the Review Panel deems appropriate.

After the Hearing

60. The decision of the Review Panel is binding on all parties. The Review Panel will communicate its decision to all parties by the end of the second school day after the appeal hearing. Where a hearing is held on the last day of term or outside term-time, the panel will notify all parties by the end of the second working day after the conclusion of the hearing.

61. If the Review Panel upholds the permanent exclusion, the clerk should immediately report this to the Local Authority. The clerk should also advise the parent(s)/carer(s) to contact the Local Authority about arrangements for their child's continued education. The Principal should remove the student's name from KESH Academy's roll the day after the conclusion of the exclusion appeal. Where the Review Panel direct re-instatement they should immediately inform the Principal of their decision and specify the date on which the student must be readmitted.

62. Details of an exclusion may not be deleted from the student record, where an exclusion is a matter of fact. The Governing Body must, however comply with any parent(s)/carer(s) request to append their appeal statement to the student's record. It will be for the Governing Body to decide what details of the exclusion are included in the student's school record: copies of the principal correspondence should be included and possibly the minutes of the Discipline Committee and Review Panel hearings, if the Discipline Committee and Review Panel respectively agree to this.

Appendix 2: Sample letters and documents

A. Notification of a permanent exclusion

Dear [Parent/Carer's name]

This letter is to inform you of my decision to exclude **[pupil name]** permanently from [date]. This means that **[pupil name]** will not be allowed back to this school unless **[he/she]** is reinstated by the School Governing Body Discipline Committee or the Independent Review Panel recommends that the governing body reconsiders their decision or quash the decision and direct that the governing body considers the exclusion again.

The decision to exclude **[pupil name]** has not been taken lightly. **[Pupil name]** has been excluded permanently because **[reason for exclusion - also include any relevant history here]**.

As this is a permanent exclusion the School Governors' Discipline Committee must meet to consider the reinstatement or to confirm the permanent exclusion of **[pupil name]**. You have the right to make representations about this decision to the School Governing Body Discipline Committee and ask them to reinstate **[pupil name]**. If the Governing Body Discipline Committee upholds the exclusion you have the right to ask for the decision to be reviewed by an Independent Review Panel. The latest date the Committee can meet is **[date - no later than 15 school days from the date the Committee is notified]**. If you wish to make representations to the Committee please contact **[name of contact details: address, phone number – usually the Clerk to the School Governors' Discipline Committee]** as soon as possible. Please advise if you have a disability or special needs which would affect your ability to attend a meeting at the school. Also, please inform **[contact]** if it would be helpful for you to have an interpreter present at the meeting. You will, whether you choose to make representations or not, be notified by the Clerk to the Committee of the time, date and location of the meeting.

At the meeting you have the right to be accompanied by a friend and/or representative (at your own expense). Taking into account your child's age and understanding, **[he/she]** may also attend the meeting to speak on **[his/her]** own behalf and is entitled to bring a friend. Alternatively your child may wish to communicate **[his/her]** views by other means.

If you think this exclusion relates to a disability your child has, and you think disability discrimination has occurred, you may raise the issue with the Governing Body Discipline Committee. This would not affect your right to make a claim to the First Tier Tribunal.

You also have the right to see a copy of **[pupil name]**'s school record. Due to confidentiality restrictions, you will need to notify me in writing if you wish to be supplied with a copy of **[pupil name]**'s school record. I will be happy to supply you with a copy if you request it. There may be a charge for photocopying.

If you require further information or assistance on the exclusion process please contact:

The Local Authority Exclusions Team. The Team can provide advice concerning the exclusion process. Tel: 0121 303 2685/7893. Fax: 0121 303 2882. Email: exclusions@birmingham.gov.uk

Inclusion Support Parent Partnership Service. The Service offers direct support to parents/carers of pupils who are going through the Special Educational Needs statementing process by working closely with schools and other agencies, and offers impartial advice and information. Tel: 0121 303 5004. Fax: 0121 464 3137. Email: SENParentPartnership@birmingham.gov.uk

Coram Children's Legal Centre. The Coram Children's Legal Centre is an independent national advice centre for parents/carers of children in state maintained schools. They offer information and support on state education in England and Wales, including advice on exclusion from school. Tel: 0808 802 0008. Email: www.childrenslegalcentre.com

Yours sincerely

[Name]

Principal

B. Notification of a fixed period exclusion (5 days or fewer)

Dear [Parent/Carer's name]

I am writing to inform you of my decision to exclude [pupil name] for a fixed period of [number of school days excluded] commencing on [date]. This means that [pupil name] will not be allowed in school for this period.

The decision to exclude [pupil name] has not been taken lightly. [Pupil name] has been excluded for this fixed period because [reason for exclusion].

[for pupils of compulsory school age]

As the parent/carer you have a duty to ensure that [pupil name] is not present in a public place, in school hours, without reasonable justification during this exclusion on [specify each date i.e. 11th, 12th & 13th December 2007]. I must advise you that you may receive a fixed penalty notice from the local authority or prosecuted if your child is present in a public place during school hours on the specified dates. If so, it will be for you to show reasonable justification.

You also have the right to see a copy of [pupil name]'s school record. Due to confidentiality restrictions, you will need to notify me in writing if you wish to be supplied with a copy of [pupil name]'s school record. I will be happy to supply you with a copy if you request it. There may be a charge for photocopying.

The school will continue to set work for [pupil name] during the period of [his/her] exclusion. **[Please insert details of arrangements that are in place for this]**. Please ensure that any work set by the school is completed and returned to [named member of staff] for marking.

You have the right to make representations about this decision to the governing body. If you wish to make representations please contact [Name of Contact] on/at [contact details — address, phone number, email], as soon as possible. Whilst the governing body has no power to direct reinstatement, they must consider any representations you make and may place a copy of their findings on your child's school record.

If you require further information or assistance on the exclusion process please contact:

The Local Authority Exclusions Team. The Team can provide advice concerning the exclusion process. Tel: 0121 303 2685/7893. Fax: 0121 303 2882. Email: exclusions@birmingham.gov.uk

Inclusion Support Parent Partnership Service. The Service offers direct support to parents/carers of pupils who are going through the Special Educational Needs Statementing process, and offers impartial advice and information. Tel: 0121 303 5004. Fax: 0121 464 3137. Email: SENParentPartnership@birmingham.gov.uk

Corma Childrens Legal Centre. The Corma Childrens Legal Centre is an independent national advice centre for parents/carers of children in state maintained schools. They offer information and support on state education in England and Wales, including advice on exclusion from school. Tel: 0808 802 0008, Email: www.childrenslegalcentre.com

Finally, you should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to appeal, and/ or make a claim, <http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/send/index.htm>. Making a claim would not affect your right to make representations to the governing body/ management committee.

[This paragraph is optional]

You [and your child or pupil's name] are requested to attend a reintegration interview with me [alternatively, specify the name of another staff member] at [place] on [date] at [time]. If that is not convenient, please contact the school to arrange a suitable alternative date and time. The purpose of the reintegration interview is to discuss how best your child's return to school can be managed.

[Child's Name]'s exclusion expires on [date] and we expect [Child's Name] to be back in school on [date] at [time].

Yours sincerely

[Name]

Principal

C. Sample letter to the parent(s)/carer(s) of a permanently excluded pupil inviting them to the meeting of the school governors' discipline committee, to consider the exclusion.

Dear [Parent/Carer's name]

With reference to the letter from the Head Teacher dated [insert date], I am now sending you a copy of the Permanent Exclusion Report and other relevant information about the reasons that led to [pupil name]'s permanent exclusion.

This report will be presented to the School Governors' Discipline Committee on [date] at [time] [am/pm]. The report includes details of the relevant previous warnings, fixed period exclusions and strategies already attempted by the school.

You have a right to attend this meeting and are invited to do so with [pupil name]. You may bring a friend and/or representative to attend the meeting with you and you may present oral or written comments for consideration. Taking into account your child's age and understanding, [he/she] may also attend the meeting to speak on [his/her] own behalf and is entitled to bring a friend. Alternatively your child may wish to communicate [his/her] views by other means. Written comments should be sent to the school for the attention of [name - Clerk to the School Governors' Discipline Committee] and be received at least two school days before the date of the meeting.

Please advise if you have a disability or special needs which would affect your ability to attend a meeting at the school. Also, please inform [contact] if it would be helpful for you to have an interpreter present at the meeting. The purpose of this meeting is for the Committee to consider the reinstatement, or confirm the permanent exclusion of [pupil name].

This meeting is extremely important and you should make every effort to attend. If for any reason you are unable to attend it may be possible for the Governing Body to arrange another date, although it is in [pupil name]'s best interests for the meeting to be held promptly. Please let [Clerk to School Governors' Discipline Committee] know as soon as possible.

I would like to remind you of the following sources of advice and assistance:

The Local Authority Exclusions Team. The Team can provide advice concerning the exclusion process. Tel: 0121 303 2685/7893. Fax: 0121 303 2882. Email exclusions@birmingham.gov.uk

Inclusion Support Parent Partnership Service. The Service offers direct support to parents/carers of pupils who are going through the Special Educational Needs statementing process by working closely with schools and other agencies, and offers impartial advice and information. Tel: 0121 303 5004. Fax: 0121 464 3137. Email: SENParentPartnership@birmingham.gov.uk

Coram Children's Legal Centre. The Coram Children's Legal Centre is an independent national advice centre for parents/carers of children in state maintained schools. They offer information and support on state education in England and Wales, including advice on exclusion from school. Tel: 0808 802 0008

Email: www.childrenslegalcentre.com

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to appeal, and/ or make a claim, to the First Tier Tribunal.

<http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/send/index.htm>.

Making a claim would not affect your right to make representations to the governing body/ management committee.

Yours sincerely

[Name]

Clerk to School Governors' Discipline Committee

D. Letter confirming to parents/carer the committee's decision to uphold the permanent exclusion.

Dear **[Parent/Carer's name]**

The meeting of the School Governors' Discipline Committee at **[name of school]** on **[date]** considered the decision by **[Head Teacher]** to permanently exclude your **[son/daughter]**, **[pupil name]**. The Committee, after carefully considering the representations made and all the available evidence, have decided to uphold **[pupil name]**'s permanent exclusion.

The reasons for the Committee's decision are as follows: **[give reasons in as much detail as possible, explaining how the committee arrived at its decision]**.

You have the right to ask for the decision to be reviewed by an Independent Review Panel (IRP). If you wish to request a review please notify **The School Appeals Team, Lower Ground Floor, 10 Woodcock Street, Birmingham B7 4BG**, that you wish to apply for a review of the decision in respect of the permanent exclusion by no later than **[specify the latest date –15 school days after the day on which notice in writing was given of the GDC decision to the parents. Where notification was given by first class post, it is treated as having been given on the 2nd working day after which it was posted if sent by first class mail]**. Your application for review must state your reasons as to why you are requesting a review and any written evidence should also be submitted. Where appropriate, you should include a reference to how the pupil's special educational needs are considered to be relevant to the exclusion.

If you have not lodged a request for a review by **[repeat latest date]**, your right to request a review will lapse. Please advise **The School Appeals Team[contact]** if you have a disability or special needs which would affect your ability to attend a review. Also, please inform **The School Appeals Team [contact]** if it would be helpful for you to have an interpreter present at the review meeting.

Regardless of whether your child has recognised special educational needs (SEN), you have the right to require the Local Authority to appoint an SEN expert to attend the review. There would be no cost to you for this appointment. The SEN expert is there to provide impartial advice to the panel on how special educational needs might be relevant to the exclusion. Please make it clear in your application whether you wish for an SEN expert to be appointed.

If you decide to request a review, it will be heard by an IRP. You may be accompanied by a friend and/or, at your own expense, appoint someone to make written and/or verbal representations on your behalf. A three member panel would comprise one serving or recently retired (within the last five years) head teacher, one serving or recently serving, school governor and one lay member, who would be chairperson. The IRP would rehear all the facts of the case - if you have fresh evidence to present to the Panel you may do so. The Panel are required to meet no later than the 15th school day after the date on which a review request is lodged. In exceptional circumstances, panels may adjourn a hearing until a later date.

In determining your review the IRP can make one of three decisions:

- they may uphold your child's exclusion;
- they may recommend that the governing body reconsiders their decision; or
- they may quash the governing body's decision and direct that the governing body considers the exclusion again.

In addition to the right to apply for a review by an IRP, if you believe that the exclusion has occurred as a result of discrimination, you 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. 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 your child was excluded.

The arrangements currently being made for **[pupil's name]**'s education will continue. **[specify details here]**.

I would like to remind you of the following sources of advice and assistance:

- **The Local Authority Exclusions Team.** The Team can provide advice concerning the exclusion process. Tel: 0121 303 2685/7893. Fax: 0121 303 2882. Email: exclusions@birmingham.gov.uk
- **Inclusion Support Parent Partnership Service.** The Service offers direct support to parents/carers of pupils who are going through the Special Educational Needs statementing process by working closely with schools and other agencies, and offers impartial advice and information. Tel: 0121 303 5004. Fax: 0121 464 3137. Email: SENParentPartnership@birmingham.gov.uk

- **Corma Children's Legal Centre.** The Corma Children's Legal Centre is an independent national advice centre for parents/carers of children in state maintained schools. They offer information and support on state education in England and Wales, including advice on exclusion from school. Tel: 0808 802 0008, Email: www.childrenslegalcentre.com

Yours sincerely

[Name]

Clerk to School Governors' Discipline Committee

E. Letter confirming to parent/carer the committee’s decision to uphold the fixed period exclusion.

Dear **[Parent/Carer’s name]**

The meeting of the School Governors’ Discipline Committee at **[name of school]** on **[date]** considered the decision by **[Head Teacher]** to exclude your **[son/daughter]**, **[pupil name]** for a fixed period of **[Number of days]** days. The Committee, after carefully considering the representations made and all the available evidence, have decided to uphold **[pupil name]**’s exclusion.

The reasons for the Committee’s decision are as follows: **[give reasons in as much detail as possible, explaining how the committee arrived at its decision]**.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to appeal, and/ or make a claim, to the First Tier Tribunal.

<http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/send/index.htm>.

Making a claim would not affect your right to make representations to the governing body/ management committee.

Yours sincerely

[Name]

Clerk to School Governors’ Discipline Committee

Appendix 2: Extracts from statutory guidance on exclusions

The head teacher's power to exclude

1. Only the head teacher of a school can exclude a pupil and this must be on disciplinary grounds. A pupil may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or permanently. A fixed period exclusion does not have to be for a continuous period. In exceptional cases, usually where further evidence has come to light, a fixed period exclusion may be extended or converted to a permanent exclusion.
2. Pupils whose behaviour at lunchtime is disruptive may be excluded from the school premises for the duration of the lunchtime period. In such cases the legal requirements in relation to exclusion, such as the head teacher's duty to notify parents, still apply. Lunchtime exclusions are counted as half a school day for statistical purposes and in determining whether a governing body meeting is triggered.
3. The behaviour of pupils outside school can be considered as grounds for exclusion³. This will be a matter of judgement for the head teacher in accordance with the school's published behaviour policy.
4. The head teacher may withdraw an exclusion that has not been reviewed by the governing body.
5. Any decision of a school, including exclusion, must be made in line with the principles of administrative law, i.e. that it is: lawful (with respect to the legislation relating directly to exclusions and a school's wider legal duties, including the European Convention of Human Rights); rational; reasonable; fair; and proportionate.
6. Head teachers must take account of their legal duty of care when sending a pupil home following an exclusion.
7. When establishing the facts in relation to an exclusion decision the head teacher must apply the civil standard of proof, i.e. 'on the balance of probabilities' it is more likely than not that a fact is true, rather than the criminal standard of 'beyond reasonable doubt'.
8. Under the Equality Act 2010 ("the Equality Act") schools must not discriminate against, harass or victimise pupils because of their: sex; race; disability; religion or belief; sexual orientation; because of a pregnancy / maternity; or because of a gender reassignment. For disabled children, this includes a duty to make reasonable adjustments to policies and practices.
9. In carrying out their functions under the Equality Act, the public sector equality duty means schools must also have due regard to 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; and
 - foster good relations across all characteristics – between people who share a protected characteristic and people who do not share it.
10. These duties need to be taken into account when deciding whether to exclude a pupil. Schools must also ensure that their policies and practices do not discriminate against pupils by unfairly increasing their risk of exclusion. Provisions within the Equality Act allow schools to take

positive action to deal with particular disadvantages affecting one group, where this can be shown to be a proportionate way of dealing with such issues⁴.

11. Head teachers and governing bodies must take account of their statutory duties in relation to special educational needs (SEN) when administering the exclusion process. This includes having regard to the SEN Code of Practice.
12. It is unlawful to exclude or to increase the severity of an exclusion for a non-disciplinary reason. For example, it would be unlawful to exclude a pupil simply because they have additional needs or a disability that the school feels it is unable to meet, or for a reason such as: academic attainment / ability; the action of a pupil's parents; or the failure of a pupil to meet specific conditions before they are reinstated. Pupils who repeatedly disobey their teachers' academic instructions could, however, be subject to exclusion.
13. 'Informal' or 'unofficial' exclusions, such as sending pupils home 'to cool off', are unlawful, regardless of whether they occur with the agreement of parents or carers. Any exclusion of a pupil, even for short periods of time, must be formally recorded.
14. Maintained schools have the power to direct a pupil off-site for education to improve his or her behaviour. A pupil can also transfer to another school as part of a 'managed move' where this occurs with the consent of the parties involved, including the parents. However, the threat of exclusion must never be used to influence parents to remove their child from the school.

Consideration of an exclusion

1. Section 51A Education Act 2002 and regulations made under this section.
2. Where legally required to consider an exclusion, the governing body must notify parents, the head teacher 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 governing body must also inform the pupil's 'home authority'.
3. In the case of a permanent exclusion the governing body'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 governing body'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 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;
 - d. 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;
 - e. details of the role of the SEN expert and that there would be no cost to parents for this appointment;
 - f. that parents must make clear if they wish for a SEN expert to be appointed in any application for a review; and
 - g. 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 governing body may provide this information in paragraphs 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.

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

1. The head teacher must, without delay, notify the governing body and the local authority of:
 - a permanent exclusion (including where a fixed period exclusion is made permanent);
 - exclusions which would result in the pupil being excluded for more than five school days (or more than ten lunchtimes) in a term; and
 - exclusions which would result in the pupil missing a public examination or national curriculum test.
2. For all other exclusions the head teacher must notify the local authority and governing body once a term.
3. Notifications must include the reasons for the exclusion and the duration of any fixed period exclusion
4. In addition, within 14 days of a request, governing bodies must provide to the Secretary of State and (in the case of maintained schools and PRUs) the local authority, information about any exclusions within the last 12 months.
5. For a permanent exclusion, if the pupil lives outside the local authority in which the school is located, the head teacher must also advise the pupil's 'home authority' of the exclusion without delay.

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

1. The governing body should set out the reasons for their decision in sufficient detail to enable all parties to understand why the decision was made.
2. 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.
3. In providing details of the role of the SEN expert, the governing body should refer to the statutory guidance provided to SEN experts.

4. Where the governing body 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 governing body, links to local services, such as Traveller Education Services or the local parent partnership (www.parentpartnership.org.uk).

The head teacher's duty to remove a permanently excluded pupil's name from the school register

1. The head teacher must remove a pupil's name from the school admissions register if:
 - 15 school days have passed since the parents were notified of the governing body'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.
2. Where an application for an independent review panel has been made within 15 school days, the head teacher must wait until the review has been determined, or abandoned, before removing a pupil's name from the register.
3. Where a pupil's name is removed from the school 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.

Statutory guidance to schools on marking attendance registers following exclusion

Whilst an excluded pupil's name remains on a school's admissions register the pupil should be marked using the appropriate attendance code. Where alternative provision has been made that meets the requirements of the pupil registration regulations, and the pupil attends it, an appropriate attendance code, such as Code B (Education Off-site) or Code D (Dual Registration), should be used. Where pupils are not attending alternative provision they should be marked absent using Code E.

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

1. Head teachers 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, head teachers will need to take a decision on the evidence available to them at the time.

2. Where the evidence is limited by a police investigation or criminal proceedings, head teachers should give particular consideration to ensuring that the decision to exclude is fair. However, the final decision on whether to exclude is for the head teacher to make.
3. Where the governing body is required to consider a head teacher's decision in these circumstances they cannot postpone their meeting and must decide whether or not to reinstate the pupil on the evidence available.
4. 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.
5. Where a panel decides to adjourn, the clerk (or local authority / 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.

Review panels

The panel must be constituted with representatives from each category:

- 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 governors who have served as a governor for at least 12 consecutive months in the last five years, provided they have not been teachers or head teachers during this time.
- Head teachers or individuals who have been a head teacher within the last five years.

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

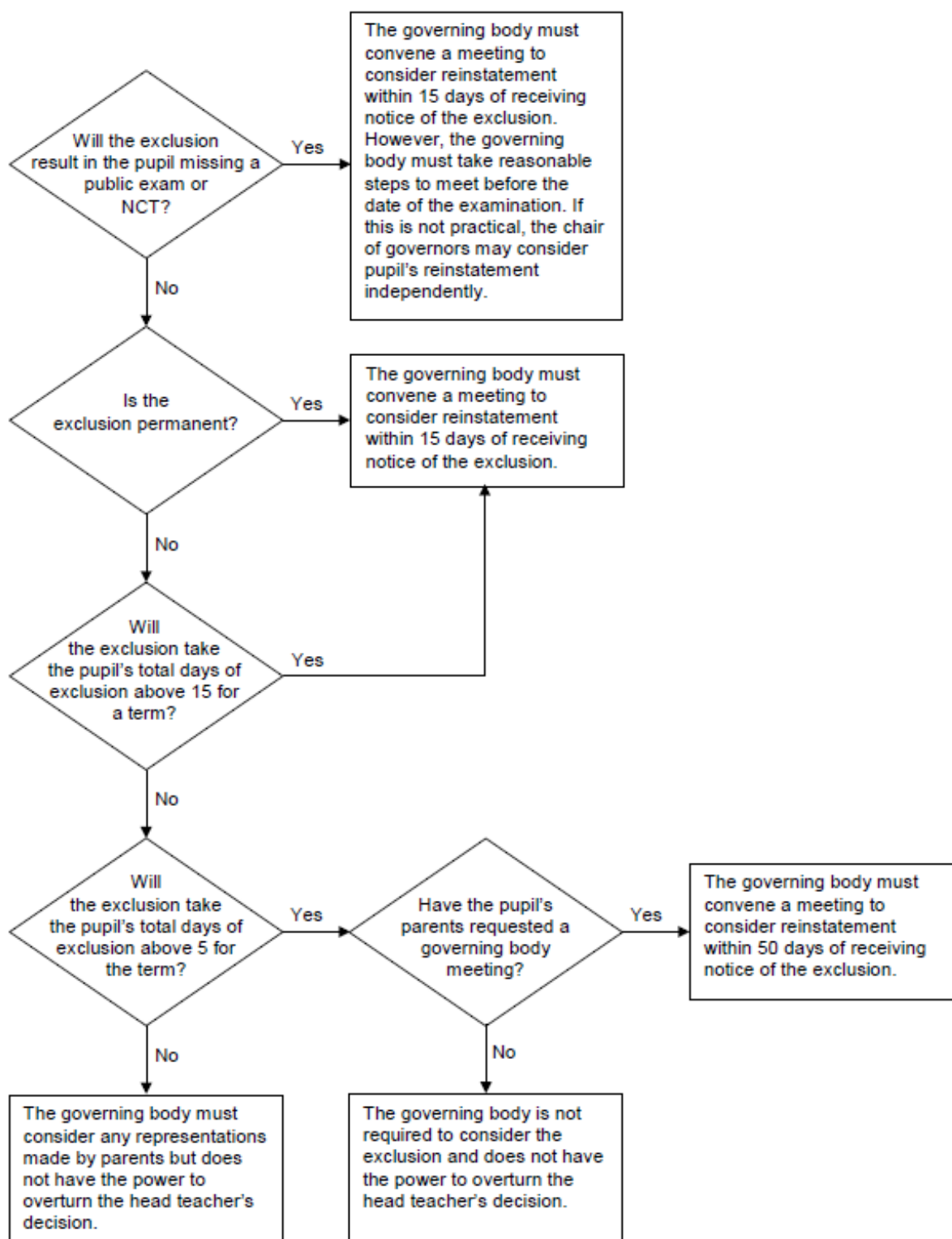
- are a member / director of the local authority / Academy Trust or governing body of the excluding school;
- are the head teacher of the excluding school or anyone who has held this position in the last five years;
- are an employee of the local authority / Academy Trust, or the governing body, of the excluding school (unless they are employed as a head teacher at another school);
- have, or at any time have had, any connection with the local authority / Academy Trust; school; parents or pupil; or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality (though an individual must not be taken to have such a connection simply because they are a head teacher at another school);
or
- have not had the required training within the last two years.

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 head teachers, governing bodies and the panel under the Equality Act 2010; and
- 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.

Annex A – A summary of the governing body’s duties to review the head teacher’s exclusion decision



The governing body may delegate its functions to consider an exclusion to a designated sub-committee. References to days mean 'school days'.