

## Exclusions Policy

### Nechells Primary E-ACT Academy

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<b>Department Owner</b>	Operations (National)
<b>Section Owner</b>	Education (National Behaviour Lead)
<b>Approver</b>	Education & Personnel Committee
<b>Date Approved</b>	July 2016
<b>Review Date</b>	July 2018
<b>Status</b>	This policy must apply to all E-ACT academies. The Headteacher is responsible for ensuring that all academy specific information is completed (as highlighted).

## 1. Scope and Aims

1.1 This policy contains guidelines, explaining the circumstances under which a pupil may be excluded on a fixed term or permanent basis from the **Academy**. The policy applies to all pupils at the Academy. This policy can be made available in large print or other accessible format if required. This policy takes account of the Academy's public sector equality duty set out in section 149 of the Equality Act 2010.

1.2 The aims of this policy are:

- to support the Academy's behaviour policy
- to ensure procedural fairness and natural justice
- to promote co-operation between the Academy and parents when it is necessary for the pupil to leave earlier than expected.

## 2. Introduction

2.1 Occasionally, for serious incidents of poor behaviour, such as verbal or physical abuse to another member of the Academy community the Head Teacher may resort to excluding students. Formal exclusion is the only legal means by which a student may be removed from the Academy site for a breach of the Behaviour Policy. Informal or unofficial exclusions are illegal even if they are done with the knowledge of the parent for no matter how short a period. Leave of absence may be granted by the Academy but will not be imposed under duress.

2.2 The law also allows the Academy to send a student home to change his/her clothes to comply with uniform rules without an exclusion as long as parents are notified in advance. The time allowed will be no longer than is necessary for clothes to be changed and the absence from the Academy recorded as authorised. However, if the student continues to breach uniform rules to avoid school, the student's absence may be recorded as unauthorised.

2.3 **Misconduct:** The main categories of misconduct which may result in exclusion are:

- supply / possession / use of certain drugs and solvents or their paraphernalia or substances intended to resemble them, or alcohol or tobacco
- theft, blackmail, physical violence, intimidation, racism or persistent bullying
- misconduct of a sexual nature, supply or possession of pornography
- possession or use of unauthorised firearms or other weapons
- vandalism or computer hacking
- A deliberate assault on a member of staff
- Any assault with a weapon or other implement against staff
- A deliberate assault on another child
- Selling and distributing drugs within the Academy
- Persistent racial abuse
- Persistent bullying including physical abuse
- Verbal threatening and intimidation of staff
- Disruptive incidents preceded by other disruptive events when the Academy has attempted to gain compliance through other sanctions
- other serious misconduct which affects the welfare of a member or members of the **Academy Community** (single or repeated episodes) on or off academy premises.

- 2.4 **Permanent exclusion** should be a last resort and will usually be taken in response to a history of persistent, disruptive behaviour where a wide range of strategies to modify the student's conduct has been attempted without success. Such strategies would include Academy-based interventions and external agencies.
- 2.5 Where a student is at serious, but not imminent risk of permanent exclusion, a managed move to another school may be considered. If a managed move is rejected by the parents, the Head Teacher will put this in writing to them so that there is evidence that the strategy was suggested if a permanent exclusion is imposed at a future point.
- 2.6 **Behaviour related to a disability:** the Academy will make reasonable adjustments for managing behaviour which is related to a pupil's disability. Where exclusion needs to be considered, the Academy will ensure that a disabled pupil is able to present his or her case fully where the disability might hinder this and that the review procedure is made accessible for parents.

### 3. Investigation procedure

- 3.1 **Ethos:** An investigation and any subsequent meeting will be conducted fairly and in a way which is appropriate to a school, without formal legal procedures.
- 3.2 **Complaint(s):** Investigation of a complaint or rumour about serious misconduct will normally be co-ordinated by the **Deputy Head Teacher**, and its outcome will be reported to the Head Teacher. Parents will be informed as soon as reasonably practicable if a complaint under investigation is of a nature that could result in the pupil being excluded.
- 3.3 **Fixed term exclusion:** A pupil may be subject to a fixed term exclusion and required to stay at home while a complaint is being investigated or while an investigation is adjourned. Should a fixed term exclusion continue for a period of more than five school days, the Academy will take reasonable steps to put in place arrangements to ensure the continuing education of the pupil. The relevant Head of Year will co-ordinate these arrangements with the pupil's parents or guardians. Parents or guardians should note that there may be a delay in providing work whilst teaching staff are given the opportunity to determine what work should be set. Alternatively, the pupil may be placed under a segregated regime on school premises.
- 3.4 **Search:** We may decide to search a pupil's space and belongings and ask him / her to turn out the contents of pockets or a bag, if we consider there is reasonable cause to do so. Clothing will not be searched until it has been removed from the wearer and care will be taken to ensure reasonable privacy. This policy does not authorise an intimate search or physical compulsion in removing clothing. Only outer clothing will be searched. If necessary, the police would be called.

### 4. Interviewing a Student

- 4.1 There will usually be only two adults present, one to ask questions and one to take notes. However, another adult may be present to support the student e.g. a parent/carer or member of staff. This adult should not contribute to the pressure on the student but help the student to put their case. Questions will maintain a neutral tone; questions will be recorded as well as the answers given.

- 4.2 A record will be kept of all dates and times of interviews as well as any comings and goings from the room. Students and their supporters will be given the opportunity to amend errors or point out omissions in the notes taken. Once the text is agreed it should be signed by all parties.
- 4.3 Students will write a statement in their own words. Where the student has weak literacy skills or is refusing to co-operate, an adult may take down dictated text for the student. If the veracity of a student's statement is in question as it is at odds with other information available, the student will be asked to write a further statement with corrections or more detail. Statements will be signed, dated and the time noted.
- 4.4 If interviews are prolonged the student's physical and emotional needs will be considered. Time will be allowed for toilet breaks, fresh air and for food and drink.
- 4.5 Witness statements will be attributed as the accused person should know the source and substance of the evidence. However, if the Academy has a concern for the health and safety of a witness the Head Teacher may allow the statement to remain anonymous. It will be a matter for someone reviewing the decision to exclude how much weight they wish to attach to an unattributed statement.
- 4.6 **Adjournment of an investigation:** It may be necessary to adjourn an investigation, for example where external agencies such as the police or children's social care services are involved and have advised that this is necessary. A decision to adjourn an investigation will take into account advice from an appropriate external agency and will be subject to periodic review.

## 5. Disciplinary meeting before the Head Teacher

- 5.1 **Preparation:** Documents available at the disciplinary meeting before the Head Teacher will include:
- a statement setting out the points of complaint against the pupil
  - written statements and notes of the evidence supporting the complaint, and any relevant correspondence
  - the Deputy Head Teacher's Investigation Report
  - the pupil's file and conduct record
  - the relevant Academy policies and procedures.
- 5.2 **Attendance:** The pupil and his / her parents (if available) will be asked to attend the disciplinary meeting with the Head Teacher at which the Deputy Head Teacher will explain the circumstances of the complaint and his / her investigation.
- 5.3 If the parents or the pupil have any special needs or disability which call for additional facilities or adjustments (e.g. parking or the provision of documents in large print or other accessible format) those requirements should be made known to the Head Teacher or Deputy Head Teacher so that appropriate arrangements can be made.
- 5.4 If the pupil or the pupil's parents experience difficulty in attending due to a disability, the Academy will make reasonable alternative arrangements to accommodate the disability. If a parent is unable to attend because of, for example, travel and working commitments, the Academy will make reasonable alternative arrangements to ensure the parent can be involved with the disciplinary process and their child's education.

- 5.5 **Proceedings:** The Head Teacher alone has the power to exclude. The Head Teacher will consider the complaint(s) and the evidence, including statements made by and / or on behalf of the pupil. Unless the Head Teacher considers that further investigation is needed, he / she will decide whether the complaint has been sufficiently proved. The standard of proof shall normally be the civil standard, i.e. 'the balance of probabilities'. This does not amount to requiring a criminal standard of proof ('beyond reasonable doubt') but it does mean that the Head Teacher may need to rely on evidence of the student's past behaviour to prove the likelihood of his committing this serious offence. Thus, if a student is permanently excluded for bringing a knife into the Academy and threatening to stab someone, previous incidents of threatening behaviour or the possession of a weapon would be relevant, but not disciplinary matters of another nature, e.g. possession of a controlled substance or general disobedience.
- 5.6 If the complaint has been proved, the Head Teacher will outline the range of disciplinary sanctions which he / she considers are open to him / her. The pupil's disciplinary record will be taken into account. Then, or at some later time, normally within 24 hours, the Head Teacher will give his or her decision, with reasons.

## **6. Fixed-Term Exclusions**

- 6.1 For the first five days of a fixed-term exclusion the Academy will set work appropriate to the student's age and ability and make arrangements for this to be collected and returned for marking. Where a student is given a fixed exclusion of six days or longer the Academy has a duty to arrange suitable off-site full-time educational provision from and including the sixth day of exclusion as day one. With reference to permanent exclusions the Academy will set work as described above for the five days following a permanent exclusion.
- 6.2 The Head Teacher may impose a fixed-period exclusion which may lead to a permanent exclusion, depending on the outcome of an on-going investigation and/or further consideration of the case. If this is a possibility it will be mentioned in the letter to parents notifying them of the fixed-term exclusion. If a permanent exclusion is subsequently imposed, this is a separate exclusion event. Thus if a permanent exclusion follows a five day fixed-term exclusion, the responsibility of the Academy for the first five days of the permanent exclusion would be to set and mark work as described above and not find suitable alternative provision.

## **7. Permanent Exclusions**

7.1 Permanent exclusion is the final step in the process for dealing with disciplinary offences when a wide range of other strategies have been tried and failed, including the use of a Pastoral Support Programme (PSP). It is not usually used, but can be, for one-off incidents. It is used in very serious cases of:

- A deliberate assault on a member of staff
- Any assault with a weapon or other implement against staff
- A deliberate assault on another child
- Selling and distributing drugs within the Academy
- A sexual assault
- Persistent racial abuse
- Persistent bullying including physical abuse
- Verbal threatening and intimidation of staff
- Disruptive incidents preceded by other disruptive events when the Academy has attempted to gain compliance through other sanctions

7.2 The Board of Trustees have given the Head Teacher the delegated authority to permanently exclude a pupil, pending a disciplinary committee hearing. When the Head Teacher makes the decision to permanently exclude a pupil all the following criteria will have been met:

- There has been a serious breach of the Academy's Discipline Policy.
- There have been similar incidents in the past (unless this is a serious single incident).
- Strategies have been used to support the student to change/improve behaviour.
- If the student remained at the Academy there would be serious harm to the education welfare and safety of staff/student.

7.3 The Head Teacher will notify the Regional Education Director immediately and within the same school day.

7.4 The Head Teacher should follow the procedures set out in law and in the Academy Exclusion Policy, Procedure and Guidance, which are designed to ensure fairness and openness in the handling of exclusions. This will reduce the chance of any successful legal challenge to the exclusion at a later stage. All exclusion cases should be treated in the strictest confidence. Only those who need to know the details of an exclusion should be informed of them.

## **8. Informing the Parent**

8.1 The Head Teacher will notify the parents immediately by telephone, where possible, and followed up with a letter including the reasons for the exclusion, the date it will take effect and the period of the exclusion. Notices must be in writing and must state:

- for a fixed-period exclusion, the precise period of the exclusion;
- for a permanent exclusion, the fact that it is a permanent exclusion;
- the reasons for the exclusion;
- the parent's right to make representations about the exclusion to the Regional Governance Team and how the student may be involved in this;
- the person whom the parent should contact if they wish to make such representations (this will usually be the Regional Co-ordinator);
- the school days on which the parent is required to ensure that their child is not present in a public place during school hours without justification; and that the parent may be prosecuted, or may be given a fixed penalty notice, if they do not do so;
- the arrangements made by the Academy for enabling the student to continue his or her education during the first five school days of an exclusion, including the setting and marking of work. It is the parent's responsibility to ensure that work sent home is completed and returned to school;
- the school days on which the student will be provided with alternative suitable full-time educational provision and will be required to attend this provision. Separate notification of these details can be sent later if more time is needed by the Academy to make arrangements, but must be given in writing at least 48 hours before the education is to be provided.
- that, if appropriate, the parent will be invited to attend a reintegration interview and that the parent's failure to attend will be a factor taken into account by a magistrates' court when deciding whether to impose a parenting order, if this is applied for. Details of time, date and location of the interview should be included in the letter for exclusions of up to five days. For longer exclusions separate notification of these details can be sent nearer to the date of the proposed interview. Any proposed interview should be held no later than the fifteenth school day, following the student's return to school.

- the latest date by which the Governance representatives must meet to consider the circumstances in which the student was excluded (except where the exclusion is for a total of not more than five school days in any one term, and would not result in the student missing a public examination);
- the parent's right to see and have a copy of his or her child's school record upon written request to the school;

8.2 **NB** Letters may need to be translated into other languages, where parents' first language is not English.

## 9. Informing the Regional Governance Team and Relevant Local Authority

9.1 Within the same school day the Head Teacher **must inform the** Regional Director of Education of:

- permanent exclusions;
- exclusions which would result in the student being excluded for more than five school days in any one term;
- exclusions which would result in the student missing a public examination.

9.2 For a permanent exclusion, if the student lives outside the LA in which the Academy is located, the Head Teacher must also advise the home LA of the exclusion, so that they can make arrangements for the student's full-time education from and including the sixth school day of exclusion.

9.3 Fixed-term exclusions totalling five or fewer school days in any one term must be reported for monitoring purposes to the Regional System Leader (Behaviour) every 6 weeks.

A detailed exclusion report should be sent to the Regional System Leader (Behaviour) every 6 weeks. The report will be used in the Raising Achievement Board meetings and should contain the following:

- Analysis of behaviour data including a breakdown into gender, DSEN and pupil premium
- Overview of behaviour incidents including breakdown
- Internal behaviour data
- Overview of interventions and impact

9.4 Where the exclusion results in the pupil missing between five and a half and 15 school days in the term, the parents may request a meeting with the Regional Education Director. The letter informing the parents of the exclusion will explain who the parents should contact to arrange this meeting.

9.5 The Regional Governance representatives will automatically meet to review permanent exclusions and exclusions which result in the pupil missing more than 15 school days in the term or a public exam or national curriculum test.

9.6 Parents of a pupil excluded for five days or less may make representations to the regional governance team about the exclusion but the governance team are not required to meet with the parents and cannot direct reinstatement.

## **10. Parents' Responsibilities**

10.1 If a parent sends an excluded student to the Academy or refuses to collect them, guidance suggests that the Academy's duty of care remains, as the Academy must have due regard for the student's safety. There is a responsibility placed on parents to ensure that an excluded student is not in a public place during school hours without reasonable justification, or a fixed penalty could be imposed. Parents may also be warned in the exclusion letter that this failing to comply with their duties in this regard may form part of a case for a parenting order to be issued by the magistrate's court.

## **11. Review by the Governance**

11.1 When a pupil has been permanently excluded, a meeting of a Discipline committee will be held within 15 school days after day 1 of the exclusion. The Discipline committee will consist of the Regional Education Director (Chairing the committee) and two members of the Academy Ambassadorial Advisory Body. If the Regional Education Director has had any prior involvement in the case, a separate Regional Education Director, Regional Operations Director or National Director will chair the panel. At any meeting the Discipline Committee may consider more than one exclusion so long as it complies with the statutory time limits relating to each one.

11.2 Where parents have requested a meeting to review, it will be held within 50 school days after they received notice of the exclusion. Parents will be invited to the meeting, told in advance of the date and location and will be given the opportunity to make representations at the meeting.

11.3 Where an exclusion would result in a pupil missing a public exam or national curriculum test, the governance representatives will take reasonable steps to meet before the date of the examination. If this is not practical, the chair may consider the pupil's reinstatement independently and decide whether or not to reinstate the pupil.

11.4 The role of the Governance is to:

- uphold the exclusion; or
- direct the pupil's reinstatement either immediately or on a particular date.

11.5 The governance will consider representations made by the parents and the Head Teacher and will make its decision on the balance of probabilities.

11.6 Where the exclusion is upheld by the Governance, the parents will be informed by letter within three working days, explaining the reasons for the decision and details of the appeal procedure

## **12. The Exclusion Procedure**

12.1 Any members of the Governance sitting on a governors' Disciplinary Committee must have received adequate training within the last three years.

12.2 The procedure is as follows:

- The student is kept in isolation during investigation of the incident.
- Written details of the incident collected from those involved before any decision is made.
- Letter prepared for parents including a return date.



- Parent/carer telephoned by senior member of staff to explain the incident and to arrange for the student to be sent home.
- Student takes letter home, with one copy posted.
- Letter displayed in staff room to keep staff informed. Teachers are responsible for setting work for excluded students and should ensure suitable work is handed into the Head Teacher on request.
- Parent/carer and student attend return from exclusion meeting with senior member of staff. A record of the meeting to be kept in the student's Folder.
- When appropriate the student is placed on report, with monitoring and review procedures agreed.
- When appropriate, an apology given to staff/student.
- Exclusion entered on the Academy's Exclusion Record.
- When appropriate, both internal and external support must be provided to reduce the risk of further exclusions.
- For students at risk of further exclusions a Pastoral Support Plan or BSP must be put into place and shared with staff.
- All exclusions are monitored by the Governance every 6 weeks during the Raising Achievement Board Meetings.

### **13. The Exclusion Report**

13.1 In advance of the Disciplinary Committee the Head Teacher will prepare an exclusion report with numbered pages which explains why the student was excluded. The report will include:

- A profile sheet including basic information about the student.
- An overview of the case including a detailed account of the reason(s) for the exclusion.
- The fact that the current DfE exclusions guidance has been adhered to.
- Where relevant, that a full range of behaviour modification strategies has been attempted without lasting success.
- An explicit statement as to what mitigating and aggravating factors apply in this case.
- An indication of how the sanction that has been applied is consistent with the Academy's Behaviour Policy.
- A statement to explain how the Academy's expectations with regard to behaviour are communicated to students and parents.
- A statement to the effect that the decision is consistent with the way that similar cases have been dealt with in the past and that others who may have been involved in the present exclusion have been dealt with in a manner proportionate to their involvement.
- The alternative sanctions that were considered (if applicable).
- An indication of the consultations that took place before the decision to exclude was finally reached.
- Where applicable, the fact that the student and their parents/carers were warned of the risk of permanent exclusion.
- In the case of a student with SEN, or a looked-after or disabled student, that the relevant DfE guidance was considered before the decision to exclude was taken.
- That in reaching the decision, equal opportunity legislation was complied with.
- In the case of permanent exclusion, the perceived consequences of allowing the student to remain at the Academy, in terms of the education and welfare

of the student or others in the Academy and the impact on good order and discipline.

- Where appropriate a comment from the Head Teacher of his/her duty of care and the need to balance the needs of the individual against the needs of the whole-Academy community.
- A list of the interventions that have taken place to modify the student's behaviour, including a table to show any fixed-term exclusions that have been applied, with dates, duration and reasons. This should be augmented with appropriate evidence, such as reports of reviews that have taken place and letters to parents.
- A behaviour log containing brief details of past incidents with the relevant dates and actions taken. Do not include a behaviour log for a student charged with a one-off offence, unless the previous behaviour is similar to that which led to the exclusion.
- Details of any investigation that has taken place including, where appropriate, witness statements which should normally be attributed and dated, and diagrams and photographs where relevant.
- A copy of the Academy's Behaviour Policy highlighting the part which indicates that exclusion imposed is a sanction that might be applied in the circumstances alleged.

13.2 When drafting an exclusion report avoid references which assume the reader is familiar with the Academy. Thus, abbreviations need to be explained as do situations where an understanding of the layout of the Academy is crucial to the case. A plan of the Academy should be supplied if location is important to the case.

13.3 The Exclusion Report should be circulated to all parties in good time before a hearing. Five days is reasonable.

13.4 It will be helpful to have the excluded student's folder available if questions or challenges to the accuracy of the Exclusion Report arise that require reference to its content. However, it would not be appropriate to extract fresh evidence from the file at the time of the hearing to support the Academy's case that had not been included in the Exclusion Report as the parents might reasonably claim that they had not been given a fair chance to prepare a defence.

13.5 As the Head Teacher alone has the power to exclude, the governance may not increase the severity of an exclusion, e.g. by extending its period or imposing a permanent exclusion in place of a fixed-term exclusion. Neither may they impose a lesser sanction. They may only either uphold the decision or order re-instatement, either immediately or by a particular date.

## **14. Re-instatement**

14.1 If the discipline committee re-instate an excluded student it may be appropriate for a separate meeting to take place between the Head Teacher and the Chair. If the student is to be re-instated the process of re-integration will require careful planning. Having established that the student is prone to the sort of behaviour that led to their exclusion in the first place, the Academy may be considered as not having fulfilled its duty of care to the student if it does not take steps to reduce the likelihood of such behaviour reoccurring. This would make it difficult to justify a further exclusion for the same offence. For example, if a student were re-instated after a drug-related offence, it would be appropriate to offer counselling as part of the re-integration plan. Care will need to be taken in drawing up a plan that is supportive but which could not be construed as victimising the student. The Local Authority may be able to assist in drawing up an appropriate plan and in providing the necessary resources.

- 14.2 The re-integration plan should involve a statutory interview which must be arranged during or following the expiry of a fixed period exclusion. This requirement applies to permanent exclusion as well. The interview provides an opportunity to discuss the re-integration plan and emphasise to parents the importance of working co-operatively with the Academy. It may be appropriate to draw up a parenting contract if this forms part of the re-integration plan but should the parents refuse to engage, this would not constitute grounds to delay re-instatement. It would be appropriate to point out that the student might be subject to further exclusion if their behaviour does not improve, but also to stress explicitly that the student will be treated fairly.
- 14.3 A re-integration plan may also involve carrying out a risk assessment and implementing measures to reduce identified risks, eg if a student is re-instated following an assault upon another student. In such cases there are issues of duty of care toward both students (and perhaps to staff).
- 14.4 The Academy will formalise re-integration plans in a format similar to a PSP, where actions, expectations and consequences are made clear in writing, Should a further exclusion be necessary, the Academy's case will be supported if it can be demonstrate that a sound integration plan was put in place and rigorously applied. Such a plan may also go some way to reassuring staff.

## **15. Police involvement and parallel criminal proceedings**

- 15.1 An Academy-related incident may sometimes also be the subject of a police investigation which may subsequently result in criminal proceedings. This can mean that the evidence available to the Head Teacher and the Governance is very limited. They may not, for example, be able to hear relevant witnesses or to consider relevant material; it may not be known whether a criminal charge is to be brought; if a charge has been brought, the eventual outcome of any court proceedings may be uncertain. It should be remembered that the police and the courts will be applying the criminal standard of proof — beyond reasonable doubt — whereas the Head Teacher and the Governance must apply the civil standard of proof (the balance of probabilities).
- 15.2 The Head Teacher need not postpone his or her decision to exclude a student simply because of the possibility that criminal proceedings may be brought in respect of the same incident, but the critical factor in any such case will be the evidence that is available to the Head Teacher. In such circumstances, a judgment must be made on the basis of the evidence available. If, having considered the evidence, on a balance of probabilities the Head Teacher concludes that it is distinctly more likely that the student committed the alleged offence, then the Head Teacher may proceed to take a decision on exclusion. It may be advisable, where the evidence is not clear cut or is still coming to light, to make alternative provision, or where it is clear on balance of probabilities that the student committed the disciplinary offence, but the full circumstances and the seriousness have not yet been established, first to exclude the student for a fixed period.

## **16. Independent Review Panel**

- 16.1 **Independent Review Panel (IRP):** The Academy will conduct this procedure for the review of permanent exclusions in accordance with the law and relevant guidance.

- 16.2 **Request for an appeal:** A request for a review of the decision of the Regional Governance not to reinstate the permanently excluded pupil must be made in writing setting out the grounds on which it is made and whether or not the parents require an SEN expert at the hearing. The letter from the discipline committee will indicate the latest date by which an appeal may be lodged.
- 16.3 **Timing:** An IRP will meet to consider the appeal no later than the 15th school day after the day on which the application for the review was lodged. Parents will be informed of the date and location of the hearing. The hearing may be adjourned if the panel consider that it would not be appropriate to proceed, for example where additional information is required.
- 16.4 **Composition of the panel:** The IRP will consist of three or five members and will be appointed in accordance with government guidance. A clerk to the panel will also be appointed, who can provide independent advice to all of the parties and will circulate all relevant papers to the parties at least five school days before the hearing. Parents should contact the clerk if they have any questions about this procedure.
- 16.5 **Role of the panel:** The IRP will review the decision not to reinstate the permanently excluded pupil taking into account the evidence available, including any fresh evidence. An IRP may decide, on the balance of probabilities, to:
- uphold the decision to exclude;
  - recommend that the Governance reconsiders their decision; or
  - quash the decision and direct that the Governance considers the exclusion again.
- 16.6 **Conduct of hearing:** The hearing will be conducted in a suitable venue and in an informal manner. Parents may be accompanied by a friend or representative. All parties will have the opportunity to put forward their case.
- 16.7 **Procedure:** The IRP will decide whether the decision was flawed having regard to the evidence that was available to it at the time of the decision and, where applicable, the SEN expert's view of how SEN might be relevant to the pupil's exclusion. The IRP will apply the following tests:
- Did the Head Teacher and / or Governance act outside the scope of their legal powers in taking the decision to exclude?
  - Was the decision of the Governance not to reinstate the pupil so unreasonable that it was not one a sensible person could have made?
  - Was the process of exclusion and the Governance consideration so unfair or flawed that justice was clearly not done?
- 16.8 **Record:** The Clerk to the IRP will take minutes of the proceedings, including details of attendance, the voting and the decision.
- 16.9 **Decision:** The IRP's decision does not have to be unanimous and can be decided by a majority vote. The decision is binding on the pupil, the parents, the governance and the Head Teacher. All parties will be informed of the decision without delay and the reasons for it. If the exclusion is upheld, the clerk will immediately inform the relevant local authorities.
- 16.10 **Reconsideration by the Regional Governance Team:** Where the IRP directs or recommends that the governance reconsiders their decision, the regional governance must reconsider within 10 school days of being given notice of the IRP's decision. The parents, the Head Teacher and the relevant local authority will be informed of the decision.

16.11 **Complaint:** If parents have a complaint about maladministration by the IRP, they should contact the Education Funding Agency (**EFA**).

## 17. References

- [Statutory guidance on school exclusions from September 2012](#)

This version of the guidance (published June 2012, February 2015 guidance withdrawn)

Links

- [The School Discipline Regulations 2012 \(External link\)](#)
- [Education Act 2002 \(External link\)](#) Details of Chapter 32 of the 2002 Education Act.
- [Education and Inspections Act 2006 \(External link\)](#)
- [The Education \(Provision of Full-Time Education for Excluded Pupils\) \(England\) Regulations 2007](#)