



KINGSMOOR PRIMARY SCHOOL

Suspension and Permanent Exclusions Policy

To be reviewed annually alongside the Behaviour Policy and Positive Handling Policy.

Reviewed by staff

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Reviewed by committee

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Contents

1. Aims	2
2. Legislation and Statutory Guidance.....	2
3. Definition.....	2
4. Roles and Responsibilities	3
5. Considering the reinstatement of a pupil	7
6. An Independent Review	9
7. School Registers	10
8. Returning from a Suspension	11
9. Monitoring Arrangements.....	11
10. Links with Other Policies	11

Appendix 1

Annex A – A summary of the governing board’s duties to review the headteachers exclusion decision.

1. Aims

Our school aims to ensure that:

- Pupils in school are safe and happy
- The suspension and permanent exclusion process is applied fairly and consistently
- The suspension and permanent exclusions process is understood by governors, staff, parents and pupils
- Pupils do not become NEET (not in education, employment or training).
- Ensure all suspensions and permanent exclusions are carried out lawfully

2. Legislation and statutory guidance

This policy is based on statutory guidance from the Department for Education: [Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units \(PRUs\) in England including pupil movement](#).

It is based on the following legislation, which outline schools’ powers to exclude pupils:

- Section 52 of the Education Act 2002, as amended by the Education Act 2011
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- Sections 64-68 of the School Standards and Framework Act 1998
- Part 7, chapter 2 of the [Education and Inspections Act 2006](#), which looks at parental responsibility for excluded pupils
- Section 579 of the [Education Act 1996](#), which defines ‘school day’
- The [Education \(Provision of Full-Time Education for Excluded Pupils\) \(England\) Regulations 2007](#), as amended by [The Education \(Provision of Full-Time Education for Excluded Pupils\) \(England\) \(Amendment\) Regulations 2014](#)
- [The Equality Act 2010](#)
- [Children and Families Act 2014](#).

3. Definition

For the purposes of exclusions, **school day** is defined as any day on which there is a school session. Therefore, INSET or staff training days do not count as a school day.

Suspension – when a pupil is removed from the school for a fixed period. This was previously referred to as a ‘fixed-term exclusion’. This includes lunchtime exclusions which are counted as half a school day for statistical purposes and in determining whether a governing board meeting is triggered. A fixed-period exclusion does not have to be for a continuous period (up to a maximum of 45 school days in a single academic year/15 days per term).

Permanent exclusion – when a pupil is removed from the school permanently and taken off the school roll. This is sometimes referred to as an ‘exclusion’.

Off-site direction – when a governing board of a maintained school requires a pupil to attend another education setting temporarily, to improve their behavior.

Alternative provision - this refers to the education arrangements made for excluded pupils to continue to have a suitable, full-time education whilst they are excluded from school or cannot attend school for another reason. In some circumstances, alternative provision can be used where a child has not been excluded, including alongside mainstream or special education, or for a placement to address poor behaviour.

Parent – any person who has parental responsibility and any person who has care of the child.

Managed move – when a pupil is transferred to another school permanently. All parties, including parents and the admission authority for the new school, should consent before a managed move occur

Part-time timetable - this is when the full-time school provision is reduced in agreement with parent and agencies involved in order to support the child in accessing school provision. Ultimate aim would be to minimize further suspensions. This would only be implemented for a set period of time and a planned transition back into full-time education would form part of the child's pastoral support plan.

A note on off-rolling

Our school is aware that off-rolling is unlawful. Ofsted defines off-rolling as:

“The practice of removing a pupil from the school roll without a formal, permanent exclusion or by encouraging a parent to remove their child from the school roll, when the removal is primarily in the interests of the school rather than in the best interests of the pupil.”

We will not suspend or exclude pupils unlawfully by directing them off site, or not allowing pupils to attend school:

- Without following the statutory procedure or formally recording the event, e.g. sending them home to 'cool off'
- Because they have special educational needs and/or a disability (SEND) that the school feels unable to support
- Due to poor academic performance
- Because they haven't met a specific condition, such as attending a reintegration meeting
- By exerting undue influence on a parent to encourage them to remove their child from the school.

4.Roles and responsibilities

4.1 The headteacher

The decision to suspend or permanently exclude

Only the headteacher, or acting headteacher, can suspend or permanently exclude a pupil from school on disciplinary grounds. The decision can be made in respect of behaviour inside or outside of school. A suspension or permanent exclusion will be taken as a last resort, in accordance with the school's Behaviour Policy and after all reasonable steps have been taken to support a child with the education at Kingsmoor Primary School.

We are committed to following all statutory exclusions procedures to ensure that every child receives an education in a safe and caring environment. We will not encourage a parent to remove their child from the school roll, when the removal is primarily in the interests of the school rather than in the best interests of the pupil.

Kingsmoor School, as a maintained school has the power to direct a pupil off-site for education to improve their behaviour. A pupil at any type of school 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 and the admission authority of the school. However, the threat of exclusion must never be used to influence parents to remove their child from the school.

A decision to suspend or permanently exclude a pupil will be taken only:

- In response to serious or persistent breaches of the school's behaviour policy **and**
- If allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

Before deciding whether to suspend or exclude a pupil, the headteacher will:

- **Consider** all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked
- **Allow** the pupil to give their version of events
- As detailed in the Kingsmoor Behaviour Policy, **consider** if the pupil's behaviour is a result of an unmet need, if the child has special educational needs (SEND) or is within any other category of vulnerable pupil group, and consider what extra support might be needed to identify and address the unmet needs of pupils from these groups in order to reduce their risk of suspension or permanent exclusion
- **Consider** whether the pupil is especially vulnerable (e.g. the pupil has a social worker, or is a looked-after child (LAC))
- **Consider** whether all alternative solutions have been explored, such as off-site direction or managed moves

The headteacher will consider the views of the pupil, in light of their age and understanding, before deciding to suspend or exclude, unless it would not be appropriate to do so.

Pupils who need support to express their views will be allowed to have their views expressed through an advocate, such as a parent or social worker.

The headteacher will not reach their decision until they have heard from the pupil and will inform the pupil of how their views were taken into account when making the decision.

The headteacher will also:

- **Take account** of any contributing factors identified after an incident of poor behaviour has occurred – for example, where it comes to light that a pupil has suffered bereavement, has mental health issues or has been subject to bullying

- **Ensure** early intervention has been employed to address underlying causes of disruptive behaviour. This should include:
 - an assessment of whether appropriate support is in place to support any special educational needs or disability that a pupil may have; including the use of ELSA and PFSA in school
 - the use of a multi-agency assessment for pupils who demonstrate persistent disruptive behaviour. Completion of an EHA/EHCP if appropriate.
- **Consider directing pupils off-site for education.** As a maintained school, Kingsmoor School has the power to direct a pupil off-site for education, to improve his or her behaviour (see [section 29\(3\) Education Act 2002](#) and the [Education \(Educational Provision for Improving Behaviour\) \(Amendment\) Regulations 2012](#)). If school decides to use this power:
 - ensure that parents are given clear information about the placement – why, when, where, and how it will be reviewed
Note: Where the pupil has a Statement of Special Educational Needs (SEN) or an Education, Health & Care Plan (EHCP), the Local Authority must also be kept informed
 - keep the placement under review and involve parents in the review
Note: The regulations specify regular reviews but do not specify how often reviews must take place (that should be decided on a case-by-case basis). Reviews should be frequent enough to provide assurance that the off-site education is achieving its objectives and that the pupil is benefitting from it
 - have regard to guidance from the [Secretary of State](#) on the use of this power
Note: New Statutory Guidance on this issue can be found in “[Alternative Provision – Statutory guidance for Local Authorities](#)” (January 2013) at paragraph 41.
- **Consider managed moves.** A pupil can also be transferred to another school as part of a ‘managed move’. This is to allow the pupil to have a fresh start in a new school and is an alternative to an exclusion. Managed moves are *voluntary* – they must only be arranged with the consent of the parties involved, including the parents. The threat of exclusion will never be used to influence parents to remove their child from the school. Managed moves are usually subject to a trial period in the new school. Pupils can be returned to the original school if the placement fails
- In consultation with Local authority and outside agencies, **consider** implementing a reduced timetable for an agreed amount of time
- **Consider the effectiveness of suspensions or permanent exclusions.** Where a pupil has received multiple suspensions or is approaching the legal limit of 45 school days of suspensions in an academic year, head teachers should consider whether exclusion is providing an effective sanction.

Pupils should be enabled and encouraged to participate at all stages of the exclusion process, taking into account their age and ability to understand.

When establishing the facts in relation to an exclusion decision, the head teacher must apply the civil standard of proof; i.e. ‘on the balance of probabilities’ it is more likely than not that a fact is true, rather than the criminal standard of ‘beyond reasonable doubt.’ This means that the headteacher should accept that something happened if it is more likely that it happened than that it did not happen. The headteacher must ensure the decision to exclude a pupil is lawful, reasonable and fair and that Kingsmoor’s 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, needs, or low participation affecting one group, where this can be shown to be a proportionate way of dealing with such issues.

The headteacher, in accordance with the [Equality Act 2010](#), must not discriminate against, harass or victimise pupils because of their:

- sex
- race
- disability
- religion or belief
- sexual orientation
- because of a gender reassignment.

Kingsmoor School will not use ‘informal’ or ‘unofficial’ exclusions, such as sending a pupil home ‘to cool off’, as they 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.

The headteacher shall 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, the headteacher will need to take a decision on the evidence available to them at the time. Where the evidence is limited by a police investigation or criminal proceedings, the headteacher should consider any additional steps they may need to take to ensure that the decision to exclude is fair and should make a decision to exclude or not.

Informing parents

As detailed above, if a pupil is at risk of suspension or exclusion the headteacher will inform the parents as early as possible, in order to work together to consider what factors may be affecting the pupil's behaviour, and what further support can be put in place to improve the behaviour.

If the headteacher decides to suspend or exclude a pupil, the parents will be informed of the period of the suspension or exclusion and the reason(s) for it, without delay.

Ideally, notification should be in person or by telephone in the first instance as this would give the parents an opportunity to ask any initial questions or raise concerns directly with the headteacher.

The headteacher will immediately provide the following information, in writing (directly, delivered by hand, posted or electronically - if already in email communication) to the parents of a suspended or excluded pupil:

- The reason(s) for the suspension or permanent exclusion
- The length of a suspension or, for a permanent exclusion, the fact that it is permanent
- Information about parents' right to make representations about the suspension or exclusion to the governing board and how the pupil may be involved in this
- How representations should be made
- That the governing body has a legal responsibility to meet to consider the reinstatement of an excluded child. Parents have the right to attend this meeting and can be legally represented (at their own expense) or have a friend who accompanies them

The headteacher will also notify parents without delay and by the end of the afternoon session on the first day their child is suspended or permanently excluded, that for the first 5 school days of a suspension, or until the start date of any alternative provision where this is earlier, parents are legally required to ensure that their child is not present in a public place during school hours without a good reason. Parents may be given a fixed penalty notice or prosecuted if they fail to do this.

The headteacher should set out what arrangements have been made to enable the pupil to continue their education prior to the start of any alternative provision or the pupil's return to school, in line with legal requirements and guidance. Where it is not possible, or not appropriate, to arrange alternative provision during the first five school days of an exclusion, the school should take reasonable steps to set and mark work for the pupil. Work that is provided should be accessible and achievable by the pupil outside school.

If alternative provision is being arranged, the following information will be included when notifying parents of an exclusion:

- The start date for any provision of full-time education that has been arranged
- The start and finish times of any such provision, including the times for morning and afternoon sessions, where relevant
- The address at which the provision will take place
- Any information required by the pupil to identify the person they should report to on the first day.

If the headteacher does not have the all the information about the alternative provision arrangements by the end of the afternoon session on the first day of the suspension or permanent exclusion, they can provide the information at a later date, without delay and no later than 48 hours before the provision is due to start.

The only exception to this is where alternative provision is to be provided before the sixth day of a suspension or permanent exclusion, in which case the school reserves the right to provide the information with less than 48 hours' notice, with parents' consent.

If a child is suspended for a further fixed-period following their original exclusion, or is subsequently permanently excluded, the headteacher must inform parents without delay and issue a new exclusion notice to parents.

The headteacher should ensure that information provided to parents is clear and easily understood.

The headteacher will direct parents toward Annex C A Guide to Parents/Carers of the DFE Exclusion document.

The head must ensure children are collected from school; no child will be allowed to leave unaccompanied.

Informing the governing board and local authority

It is expected that governing bodies are made aware of escalating behavior incidents before exclusion is considered.

The headteacher will immediately notify the governing board and the local authority (LA) without delay of:

- Any permanent exclusion, including when a suspension is followed by a decision to permanently exclude a pupil
- Any suspension or permanent exclusion which would result in the pupil being suspended or permanently excluded for a total of more than 5 school days (or more than 10 lunchtimes) in a term
- Any suspension or permanent exclusion which would result in the pupil missing a National Curriculum test or public exam

The headteacher will notify the governing board once per term of any other suspensions of which they have not previously been notified, and the number of suspensions and exclusions which have been cancelled, including the circumstances and reasons for the cancellation.

For a permanent exclusion, if the pupil lives outside the LA in which the school is located, the headteacher will also immediately inform the pupil's 'home authority' of the exclusion and the reason(s) for it without delay. For all other exclusions, the headteacher will notify the governing board and LA once a term.

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

If a:

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

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

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

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

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

Cancelling suspensions and permanent exclusions

The headteacher may cancel a suspension or permanent exclusion that has already begun, but this will only be done where it has not yet been reviewed by the governing board. Where there is a cancellation:

- The parents, governing board and LA will be notified without delay
- Where relevant, any social worker and VSH will notified without delay
- Parents will be offered the opportunity to meet with the headteacher to discuss the cancellation
- As referred to above, the headteacher will report to the governing board once per term on the number of cancellations
- The pupil will be allowed back in school.

Providing education during the first 5 days of a suspension or permanent exclusion

During the first 5 days of a suspension, if the pupil is not attending alternative (AP) provision, the headteacher will take steps to ensure that achievable and accessible work is set and marked for the pupil. Online pathways such as Google Classroom or Oak Academy may be used for this. If the pupil has a special educational need or disability, the headteacher will make sure that reasonable adjustments are made to the provision where necessary.

If the pupil is looked after or if they have a social worker, the school will work with the LA to arrange AP from the first day following the suspension or permanent exclusion. Where this isn't possible, the school will take reasonable steps to set and mark work for the pupil, including the use of online pathways

4.2 The governing board

Considering suspensions and permanent exclusions

There are requirements on a governing board to consider an exclusion (these requirements are illustrated by the diagram in Annex A: A summary of the governing board's duties to review the headteacher's exclusion decision). It also has a duty to consider an exclusion if parents make a representation to do so (section 6).

The headteacher may withdraw an exclusion that has not been reviewed by the governing board.

Responsibilities regarding this would be delegated to a committee, consisting of at least 3 governors – this would be called the Exclusion Committee.

The Exclusions committee has a duty to consider parents' representations about a suspension or permanent exclusion. It has a duty to consider the reinstatement of a suspended or permanently excluded pupil (see sections 5 and 6) in certain circumstances.

Within 14 days of receiving a request, the governing board will provide the secretary of state and Local Authority with information about any suspensions or exclusions within the last 12 months.

For any suspension of more than 5 school days, the governing board will arrange suitable full-time education for the pupil. This provision will begin no later than the sixth day of the suspension.

Monitoring and analysing suspensions and exclusions data

The governing board will challenge and evaluate the data on the school's use of suspension, exclusion, off-site direction, alternative provision and managed moves.

The governing board will consider:

- How effectively and consistently the school's behaviour policy is being implemented
- The school register and absence codes
- Instances where pupils receive repeat suspensions
- Interventions in place to support pupils at risk of suspension or permanent exclusion
- Any variations in the rolling average of permanent exclusions, to understand why this is happening, and to make sure they are only used when necessary
- Timing of moves and permanent exclusions, and whether there are any patterns, including any indications which may highlight where policies or support are not working
- The characteristics of suspended and permanently excluded pupils, and why this is taking place
- Whether the placements of pupils directed off-site into alternative provision are reviewed at sufficient intervals to assure that the education is achieving its objectives and that pupils are benefiting from it
- The cost implications of directing pupils off-site.

4.3 The LA

For permanent exclusions, the LA is responsible for arranging suitable full-time education to begin no later than the sixth day of the exclusion and where a pupil has an EHC plan, the local authority may need to review the plan or reassess the child's needs, in consultation with parents, with a view to identifying a new placement.

For pupils who are LAC or have social workers, the LA and the school will work together arrange suitable full-time education to begin from the first day of the exclusion.

5. Considering the reinstatement of a pupil

The Exclusion Committee will consider the reinstatement of an excluded pupil within 15 school days of receiving the notice of the exclusion if:

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

If requested to do so by parents, this Committee will consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion if the pupil would be excluded from school for more than 5 school days, but less than 16, in a single term. In the case of a suspension which does not bring the pupil's total number of days of exclusion to more than five in a term, the governing board must consider any representations made by parents, but it cannot direct reinstatement and is not required to arrange a meeting with parents.

Where a suspension or permanent exclusion would result in a pupil missing a public examination or National curriculum test, this Committee will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the chair of the governing board (or the vice-chair where the chair is unable to make this consideration) will consider the exclusion independently and decide whether or not to reinstate the pupil.

When a governing body meet to consider the reinstatement of a pupil, the following parties must be invited to and allowed to make representations or share information:

- parents (and, where requested, a representative or friend);
- the head teacher; and
- a representative of the local authority.
- Pupil's social worker (if they have one)
- The virtual school head (if a child looked after).

The governing board will try to arrange the meeting within the statutory time limits set out above and must try to have it at a time that suits all relevant parties. However, its decision will not be invalid simply on the grounds that it was not made within these time limits.

Where the governing board is legally required to consider the reinstatement of an excluded pupil they should:

- Consider whether the decision to suspend or permanently exclude was lawful, reasonable, and procedurally fair
- Consider whether the headteacher followed their legal duties
- Ensure the welfare and safeguarding of the pupil and their peers

- Not discuss the exclusion with any party outside the meeting
- Ask for any written evidence in advance of the meeting (including witness statements and other relevant information held by the school such as those relating to a pupil's SEN)
- Where possible, circulate any written evidence and information, including a list of those who will be present, to all parties at least five school days in advance of the meeting
- Allow parents and the pupil to be accompanied by a friend or representative (where a pupil under 18 is to be invited as a witness, the governing board should first seek parental consent and invite parents to accompany their child to the first meeting)
- Comply with their duty to make reasonable adjustments for people who use the school and consider what reasonable adjustments should be made to support the attendance and contribution of parties at the meeting (for example where a parent or pupil has a disability in relation to mobility or communication that has an impact upon their ability to attend the meeting or to make representations); and
- Identify the steps they will take to enable and encourage the excluded pupil to attend the meeting and speak on their own behalf (such as providing accessible information or allowing them to bring a friend), taking into account the pupil's age and understanding; or how the excluded pupil may feed in their views by other means if attending the exclusion meeting is not possible.

When establishing the facts in relation to an exclusion the governing board 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'.

Where there is police involvement or criminal proceedings, the governing board cannot postpone its meeting and must decide whether or not to reinstate the pupil on the evidence available.

In light of a review regarding an exclusion, the Exclusion Committee can either:

- Decline to reinstate the pupil, or
- Direct the reinstatement of the pupil immediately, or on a particular date

In reaching a decision, this Committee will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the headteacher followed their legal duties. They will decide whether or not a fact is true 'on the balance of probabilities', which differs from the criminal standard of 'beyond reasonable doubt', as well as any evidence that was presented in relation to the decision to exclude.

Minutes will be taken of the meeting, and a record of evidence considered kept. These minutes should be made available to all parties on request. The outcome will also be recorded on the pupil's educational record.

The governing board should ask all parties to withdraw before making a decision. Where present, a clerk may stay to help the governing board by reference to their notes of the meeting and with the wording of the decision letter.

The Exclusion Committee will notify, in writing, the headteacher, parents, social worker and Virtual head (if applicable) and the LA of its decision, along with reasons for its decision (in sufficient detail to enable all parties to understand why the decision was made), without delay.

Where an exclusion is permanent and the Exclusions committee has decided not to reinstate the pupil, the notification of decision will also include the following:

- The fact that it is a permanent exclusion
- Notice of parents' right to ask for the decision to be reviewed by an independent review panel
- The date by which an application for an independent review must be made (15 school days from the date on which notice in writing of the governing board's decision is given to parents)
- The name and address to which an application for a review and any written evidence should be submitted
- That any application should set out the grounds on which it is being made and that, where appropriate, it should include reference to how the pupil's special educational needs (SEN) are considered to be relevant to the permanent exclusion
- That, regardless of whether the excluded pupil has recognised SEN, parents have a right to require the Local Authority to appoint an SEN expert to advise the review panel
- Details of the role of the SEN expert and that there would be no cost to parents for this appointment
- That parents must make clear if they wish for an SEN expert to be appointed in any application for a review
- That parents may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents may also bring a friend to the review
- That, if parents believe that the permanent exclusion has occurred as a result of unlawful discrimination, 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. Also that any claim of discrimination made under these routes should be lodged within 6 months of the date on which the discrimination is alleged to have taken place

The governing board 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, which should also include:

- a link to this statutory guidance on exclusions: ([School's Suspensions and permanent exclusions](#))
- a link to guidance on making a claim of discrimination to the First-tier Tribunal (Special Educational Needs and Disability) (<https://www.gov.uk/courts-tribunals/first-tier-tribunal-special-educational-needs-and-disability>) or the County Court
- a link to sources of impartial advice for parents such as the Coram Children's Legal Centre (www.childrenslegalcentre.com) or ACE Education (<http://www.aceed.org.uk>) and their limited advice line service on 03000 115 142 on Monday to Wednesday from 10 am to 1 pm during term time); and
- where considered relevant by the head teacher, links to local services, such as Traveller Education Services, the Information Advice & Support Services Network (formerly known as the local parent partnership) (<https://councilfordisabledchildren.org.uk/information-advice-and-support-servicesnetwork/about>), the National Autistic Society (NAS) School Exclusion Service (England) (0808 800 4002 or schoolexclusions@nas.org.uk), or Independent Parental Special Education Advice (<http://www.ipsea.org.uk/>).

6. An independent review

If parents dispute the decision of the governing board not to reinstate a permanently excluded pupil, they can ask for this decision to be reviewed by an independent review panel. Where there is an allegation of discrimination (under the Equality Act 2010) in relation to a suspension or permanent exclusion, parents can also make a claim to the First-tier Tribunal (Special Educational Needs and Disability) for disability discrimination, or the County Court for other forms of discrimination.

Applications for an independent review must be made within 15 school days of notice being given to the parents by the Exclusion Committee of its decision to not reinstate a pupil or, if after this time, within 15 school days of the final determination of a claim of discrimination under the Equality Act 2010 regarding the permanent exclusion.

The LA will arrange for an independent panel to review the decision of the governing board not to reinstate a permanently excluded pupil.

A panel of 3 or 5 members will be constituted with representatives from each of the categories below. Where a 5-member panel is constituted, 2 members will come from the school governor's category and 2 members will come from the headteacher 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 5 years, provided they have not been teachers or headteachers during this time
- Headteachers or individuals who have been a headteacher within the last 5 years.

If requested by parents with their application for an independent review panel, the local authority/academy trust must appoint a SEND expert to attend the panel and must cover the associated costs of this appointment. Parents have a right to request the attendance of an SEND expert at a review, regardless of whether the school recognises that their child has SEND. Panel members and, if appointed, the SEND expert must declare any known conflict of interest to the local authority/academy trust before the start of the review.

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

- Are a member of the LA, or governing board of the excluding school
- Are the headteacher of the excluding school, or have held this position in the last 5 years
- Are an employee of the LA, or the governing board, of the excluding school (unless they are employed as a headteacher at another school)
- Have, or at any time have had, any connection with the LA, school, governing board, parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality
- Have not had the required training within the last 2 years (see appendix 1 for what training must cover).

A clerk will be appointed to the panel.

The role of the panel is to review the governing board's decision not to reinstate a permanently excluded pupil. In reviewing the decision, the panel must consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and people working at the school. The panel must apply the civil standard of proof; i.e. 'on the balance of probabilities' it is more likely than not that a fact is true, rather than the criminal standard of 'beyond reasonable doubt'. This means that the panel should accept that something happened if it is more likely that it happened than that it did not happen. New evidence may be presented to the panel, though the school may not introduce new reasons for the exclusion or for the decision not to reinstate the pupil and the panel must disregard any new reasons that are introduced.

Taking into account the pupil's age and understanding, the pupil or their parents will be made aware of their right to attend and participate in the review meeting and the pupil should be enabled to make representations on their own behalf, should they desire to.

Where a SEN expert is present, the panel must seek and have regard to the SEN expert's view of how SEN may be relevant to the pupil's permanent exclusion.

Where a social worker is present, the panel must have regard to any representation made by the social worker of how the pupil's experiences, needs, safeguarding risks and/or welfare may be relevant to the pupil's permanent exclusion.

Where a VSH is present, the panel must have regard to any representation made by the social worker of how any of the child's background, education and safeguarding needs were considered by the headteacher in the lead up to the permanent exclusion, or are relevant to the pupil's permanent exclusion.

The independent panel will decide one of the following:

- Uphold the governing board's decision
- Recommend that the governing board reconsiders reinstatement
- Quash the governing board's decision and direct that they reconsider reinstatement (only when the decision is judged to be flawed).

In deciding whether the decision was flawed, and therefore whether to quash the decision not to reinstate, the panel must only take account of the evidence that was available to the governing board at the time of making its decision.

This includes any evidence that the panel considers would, or should, have been available to the governing board and that it ought to have considered if it had been acting reasonably.

If evidence is presented that the panel considers it is unreasonable to expect the governing board to have been aware of at the time of its decision, the panel can take account of the evidence when deciding whether to recommend that the governing board reconsider reinstatement.

The panel's decision can be decided by a majority vote. In the case of a tied decision, the chair has the casting vote.

An independent review panel does not have the power to direct a governing board to reinstate an excluded pupil.

However, where a panel decides that a governing board's decision is flawed when considered in the light of the principles applicable on an application for judicial review, it can direct a governing board to reconsider its decision.

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

- the panel's decision and the reasons for it
- where relevant, details of any financial readjustment/payment to be made if a governing board subsequently decides not to offer to reinstate a pupil within 10 school days and
- any information that the panel has directed the governing board to place on the pupil's educational record.

Where a panel has quashed the governing board's decision and directed that it reconsiders, the panel should order that a readjustment must be made to the school's budget, unless within ten school days of receiving notice of the panel's decision, the governing board decides to reinstate the pupil.

The governing body will reconvene within 10 days of the decision, and this provides an opportunity for the governing board to look afresh at the question of reinstating the pupil, in light of the findings of the independent review panel.

There is no requirement to seek further representations from other parties or to invite them to the reconsideration meeting. The governing board is not prevented from taking into account other matters that it considers relevant. It should, however, take care to ensure that any additional information does not make the decision unlawful. These minutes should be made available to all parties on request. The governing board should note the outcome of its consideration on the pupil's educational record, along with copies of any papers for future reference.

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

- the parents
- the head teacher
- the local authority
- and, where relevant, the social worker/virtual head of 'home authority'.

7. School registers

A pupil's name will be removed from the school admissions register if:

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

Where an application for an independent review has been made, the governing board will wait until that review has concluded before removing a pupil's name from the register.

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

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

Making a return to the LA

Where a pupil's name is to be removed from the school admissions register because of a permanent exclusion, the school will make a return to the LA. The return will include:

- The pupil's full name
- The full name and address of any parent with whom the pupil normally resides
- At least 1 telephone number at which any parent with whom the pupil normally resides can be contacted in an emergency
- The grounds upon which their name is to be deleted from the admissions register (i.e., permanent exclusion)
- Details of the new school the pupil will attend, including the name of that school and the first date when the pupil attended or is due to attend there, if the parents have told the school the pupil is moving to another school
- Details of the pupil's new address, including the new address, the name of the parent(s) the pupil is going to live there with, and the date when the pupil is going to start living there, if the parents have informed the school that the pupil is moving house

This return must be made as soon as the grounds for removal is met and no later than the removal of the pupil's name.

8. Returning from a Suspension

Following a suspension a re-integration meeting will be held involving the pupil, parents, a member of senior staff and other staff, where appropriate.

The following measures may be implemented when a pupil returns from a suspension:

- A pastoral support plan will be set up with child and parental involvement – with regular reviews
- If appropriate, a positive handling plan and risk assessment will be written to support the child in school
- Use of internal exclusion or the possibility of a reduced timetable discussed with parents
- Ensure appropriate effective provision is in place for the child: ELSA, PFSA, (Parental family support), TAS (Team around the school), School SEND team involved linking to professional involvement, Ed Psych/CAMHS
- External provision offered in order to support child's needs: Somerset project- weekly support in managing emotions and behaviours.

9. Monitoring arrangements

The headteacher monitors the number of exclusions every term and reports back to the governing body in the termly headteacher report. They also liaise with the local authority to ensure suitable full-time education for excluded pupils.

Governors should refer to section 4.2: **Monitoring and analysing suspensions and exclusions data**

The school will collect data on the following:

- Attendance, permanent exclusions and suspensions
- Use of pupil referral units, off-site directions and managed moves
- Anonymous surveys of staff, pupils, governors and other stakeholders on their perceptions and experiences

The data will be analysed from a variety of perspectives including:

- At school level
- By age group
- By time of day/week/term
- By protected characteristic

The school will use the results of this analysis to make sure it is meeting its duties under the Equality Act 2010. If any patterns or disparities between groups of pupils are identified by this analysis, the school will review its policies in order to tackle it.

This policy will be reviewed by the Education governors annually in conjunction with the Behaviour policy and then adopted at the next full governors meeting.

10. Links with other policies

This exclusions policy is linked to our -

- Behaviour policy
- SEN policy and information report
- Equalities policy
- DFE Exclusion guidance <https://www.gov.uk/government/publications/school-exclusion>

- COVID guidance <https://www.gov.uk/government/publications/school-exclusion/changes-to-the-school-exclusion-process-during-the-coronavirus-outbreak>

Departmental Advice on Alternative Provision:

<https://www.gov.uk/government/publications/education-for-children-with-health-needswho-cannot-attend-school>

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/268940/alt](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/268940/alternative_provision_statutory_guidance_pdf_version.pdf)

[ernative_provision_statutory_guidance_pdf_version.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/268940/alternative_provision_statutory_guidance_pdf_version.pdf)

Departmental Advice on Behaviour in Schools: <https://www.gov.uk/government/publications/behaviour-and-discipline-in-schools>

Departmental Advice on Behaviour and Mental Health: <https://www.gov.uk/government/publications/mental-health-and-behaviour-in-schools--2>

Children with Special Educational Needs and Disabilities: <https://www.gov.uk/children-with-special-educational-needs/overview>

Departmental Advice on attendance:

<https://www.gov.uk/government/publications/school-attendance>

Appendix 1

Kingsmoor Primary School must make sure that all members of an independent review panel and clerks have received training within the 2 years prior to the date of the review.

Training must have covered:

- The requirements of the primary legislation, regulations and statutory guidance governing suspensions and permanent exclusions on disciplinary grounds, 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 and the clerk of a review panel
- The duties of headteachers, governing boards and the panel under the Equality Act 2010
- The effect of section 6 of the Human Rights Act 1998 (acts of public authorities unlawful if not compatible with certain human rights) and the need to act in a manner compatible with human rights protected by that Act

Annex A: A summary of the governing board's duties to review the headteacher's exclusion decision

