

*'...those who hope in the LORD will renew their strength.  
They will soar on wings like eagles; they will run and not grow weary,  
they will walk and not be faint.'* Isaiah 40:31

connect | nurture | aspire | learn | excel | hope



Multi School Trust Policy

Common Trust Policy, Use as Published

Exclusions

Date adopted by Trust Board: 07/02/2018

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## **Introduction**

As highlighted by our behaviour Framework, Aquila the Diocese of Canterbury Multi Academies Trust believe that each of our Schools need to provide a clear and consistent approach to behaviour. Core to our values of Nurture, Aspire and Learn, our schools aim for a high standard of discipline. Good discipline is essential to ensure that all pupils can benefit from the opportunities provided by education, and each member of Aquila aims to encourage good behaviour and respect for others. This should be adopted at all levels and include staff, pupils and parents. Everyone is expected to show courtesy and tolerance for others and to behave in a responsible and appropriate manner.

We expect each member of the Trust to establish an ethos of compassion and caring, where the quality of all relationships is positive and members of the community respect and care for one another's well-being. We recognise that on occasion this may not be possible and the purpose of this policy is to outline the process which should be followed in circumstances where the behaviour of pupils has fallen below the high expectations set by the Aquila and its family of Academies. Please note that any reference to school in this document means an academy within Aquila.

This policy has been written with reference to the DFE guidance "*Exclusion from maintained schools, academies and pupil referral units in England; Statutory Guidance for those with legal responsibilities in relation to exclusion*" 2017. For further information please follow this link <https://www.gov.uk/government/publications/school-exclusion>. This policy should be read in conjunction with that guidance and used for referenced should further clarity be required particularly around roles and responsibilities.

## **Aims and objectives**

This policy is underpinned by the shared commitment of all members of the Trust Board, its member Academies and the wider community to achieve two important aims:

- The first is to ensure the safety and well-being of all members of the School Community and to maintain an appropriate educational environment in which all can aspire and achieve.
- The second is to realise the aim of reducing the need to use exclusion as a sanction.

If a child is disruptive on a regular basis and causes a health & safety risk to themselves and/or others or does not adhere to the acceptable standards of good behaviour expected by the school, the school has the right to discipline them. Each school should consider their Behaviour and Anti-Bullying Policies also as part of this process. In serious circumstances and when all other options have been considered, exclusion may be necessary.

The decision to exclude a pupil must be:

- Lawful
- Reasonable
- Fair

**Exclusion is an extreme sanction** and can only be administered by the Head Teacher.

Prior to making this decision the Head Teacher shall:

- Ensure that a thorough investigation of the incident leading to this course of action has been carried out;
- Consider all the evidence available to support the allegations, taking into account the school's policies;
- Allow and encourage the pupil to give their version of the events;

- Check whether the event might have been provoked, for example by bullying or sexual or racial harassment;
- Keep a written record of the action taken (and copies of records made by other members of staff) including any interviews with the pupils concerned. The statements must be dated and signed whenever possible;
- Consult with the Chief Executive Officer of the Trust in the case of a permanent exclusion

The following examples of behaviour may underline the school's decision to exclude a pupil:

- Any incident which poses a risk to other pupils or members of staff, e.g. bringing a weapon onto the premises
- Any incidents which breach the law
- Persistent and severe bullying
- Verbal and physical abuse
- Constant disruption
- A single, serious and major incident, e.g. serious assault on another individual leading to injury

**This is not an exhaustive list and there may be other situations where the Head Teacher makes the judgement that exclusion is an appropriate sanction.**

It should be noted that the behaviour policy applies in and outside of school premises. For example, trips and journeys, away team sports fixtures or a work experience placement, is subject to the School's own Behaviour Policy. Poor behaviour in these circumstances will be dealt with as if it had taken place in School and failure to adhere to this could lead to a decision to exclude.

### **Types of Exclusion**

There are two types of exclusion.

#### **Fixed Period Exclusion**

A fixed period exclusion is where a child is temporarily removed from school and for a specific period of time. The DFE regulations outline that this can be for up to 45 school days in one school year, even if a child has changed schools.

In exceptional cases, usually where further evidence has come to light, a fixed period exclusion may be extended or converted to a permanent exclusion.

Pupils whose behaviour at lunchtime is disruptive may be excluded from the school premises for the duration of the lunchtime period. An exclusion that takes place over lunchtime would be counted as half a school day.

If the fixed period exclusion is longer than 5 school days, the school must arrange suitable full-time education from the sixth day, e.g. a pupil referral unit, or paid tuition.

#### **Permanent Exclusion**

A permanent exclusion means that a child is being removed from the school roll. However, the Head Teacher must not remove a pupil's name from the school admissions register until the outcome of the Independent Review Panel (if this route is followed by parents).

### **Exclusion Procedure- Fixed Term**

Most exclusions are of a fixed term nature and of short duration (usually between one and three days). The DFE regulations allow the Head Teacher/Principal to exclude a student for one or more fixed periods not exceeding 45 days in any one school year.

The Local Governing Body (LGB) need to establish arrangements to review fixed term exclusions which would lead to a pupil being excluded for more than five days but not more than 15 days in a term or where a parent has expressed a wish to make representations.

Whenever a pupil is excluded, the school will notify parents of the period of the exclusion and the reasons for it as soon as is immediately practical. In addition, the school will provide parents with the following information in writing:

- The reason(s) for the exclusion;
- The period of a fixed-period exclusion or, for a permanent exclusion, the fact that it is permanent;
- Parents' right to make representations about the exclusion to the Governors (in line with the requirements set out in paragraphs 52 to 60) and how the pupil may be involved in this;
- How any representations should be made; and
- Where there is a legal requirement for the Governors to consider the exclusion, the parents have a right to attend a meeting, to be represented at that meeting (at their own expense) and to bring a friend.

It is recognised practice to have a re-admission meeting with the parents/carers, a report card administered and where it is deemed necessary; a Pastoral Support Plan will be drawn up. During the course of a fixed term exclusion, the student is not allowed on the school premises and their daytime supervision is the sole responsibility of parents/carers. The school will provide work for the student to complete at home during this time. This should be collected by arrangement with the parent/carer or their designated representative.

In the following circumstances the Head Teacher must inform, without delay, the LGB, the Trust (normally the Chief Executive Officer) and the Local Authority immediately:

- 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 days (or more than ten lunchtimes) in a term; and
- Exclusions which would result in the pupil missing public examinations or national curriculum tests.

This notification must include reasons and duration of any fixed term exclusion.

For all other exclusions the school's leadership must notify the LGB, the Trust and the Local Authority once a term.

The school will ensure the standard letter is completed for the parents and that a copy is sent to the inclusions officer at KCC (Appendix 2). The school must also complete the exclusion notification from on KELSI via the digital front door.

<https://kentcc.firmstep.com/default.aspx/RenderForm/?F.Name=N2HLaYFp4cP&HideAll=1>

### **Exclusions Procedure - Permanent**

The decision to exclude a student permanently is a very serious one. There are two main types of situation in which permanent exclusion may be considered:

The first is a final, formal step in a concerted process for dealing with disciplinary offences following the use of a wide range of other strategies, which have been used without success. It is an acknowledgement that all available strategies have been exhausted and is used as a last resort. This would include persistent and defiant misbehaviour including bullying (which would include racist or homophobic bullying) or repeated possession and/or use of an illegal drug on school premises.

The second is where there are exceptional circumstances and it is not appropriate to implement other strategies and where it could be appropriate to permanently exclude a student for a first or a 'one off' offence. These might include:

- Serious actual or threatened violence against another student or a member of staff.
- Sexual abuse or assault.
- Carrying an offensive weapon\* (\*Offensive weapons are defined in the Prevention of Crime Act 1953 as 'any article made or adapted for causing injury to the person; or intended by the person having it with him for such use by him.)
- Arson.

The school will consider police involvement for any of the above offences. These instances are not exhaustive but indicate the severity of such offences and the fact that such behaviour seriously affects the discipline and well being of the school or its community.

### **General Factors to consider before making a decision to exclude**

Exclusion will not be imposed instantly unless there is an immediate threat to the safety of others in the school or the student concerned. Before deciding whether to exclude a student either permanently or for a fixed period the school will:

- Ensure appropriate investigations have been carried out.
- Consider all the evidence available to support the allegations taking into account the Behaviour policy.
- Allow the student to give her/his version of events.
- Check whether the incident may have been provoked for example by bullying or by racial or sexual harassment.
- Ensure that where witness or staff statements are collected, that they are signed, dated and collated.

If the school is satisfied that on the balance of probabilities the student did what he or she is alleged to have done, exclusion will be the outcome. Nonetheless, in the case of a student found in possession of an offensive weapon, whether there is an intention to use it or not, it will be usual policy in this particularly serious matter to issue a permanent exclusion.

In line with its statutory duty, these same two tests of appropriateness will form the basis of the deliberations of the any future panel meeting which will meet to consider the decision to exclude. This Disciplinary Panel will require the Head Teacher/Principal to explain the reasons for the decision and will look at appropriate evidence, such as the student's record, witness statements and the strategies used to support the student prior to exclusion.

### **Lunchtime Exclusion**

A Fixed-period exclusion can also be for parts of the school day. For example, if a pupil's behaviour at lunchtime is disruptive, they may be excluded from the school premises for the duration of the lunchtime period. The legal requirements relating to exclusion, such as the Head Teacher's duty to notify parents, apply in all cases. Lunchtime exclusions are counted as half a school day for statistical purposes and in determining whether a governing board meeting is triggered.

### **Challenging an Exclusion**

Parents have the right to ask the LGB to consider their representations about an exclusion. This will depend on the length and nature of the exclusion. The Governors will consider the reinstatement of an excluded child within 15 school days of receiving the notice of exclusion if:

- The exclusion is permanent
- It is a fixed period exclusion which would bring the pupil's total number of school days of exclusion to more than 15 in term; or
- The exclusion means the child will miss a public exam or national curriculum test
- Where the exclusion means that a child will miss a national curriculum test there is a further requirement for a governing body to consider exclusion before the date of the

### **Duty of the Local Governing Body to Consider Exclusion**

For all Aquila Academies, the duty to consider the circumstances surrounding a decision to exclude, if requested to do so by the parent's, is delegated to the LGB or Intervention Board.

On receipt of a parent's request the LGB should form a Disciplinary Panel consisting of at least three LGB members within fifteen days.

Where the LGB is unable to find sufficient governors from their own bodies within fifteen days, they can request support from other Governors in the trust. This should ensure resolution of the matter within the 15 day timeframe and that the disruption to the child's continuity of education is kept to a minimum.

Once three members have been sourced and the date for the meeting has been arranged, if any exceptional circumstances arise on the day which mean a member is unable to attend, the chair of the Disciplinary Panel will seek representations from all parties as to whether or not the meeting should proceed.

The Disciplinary Panel, will consider the parents' representations, the Head Teacher's representations and those of the Local Authority Exclusion Officer. Those invited to this meeting will normally only include parents, the Head Teacher and the Local Authority Exclusion Officer. The Clerk to the Governing Body will make every effort to arrange this meeting for a date and time convenient to all parties.

Where there is a fixed period exclusion which does not bring the pupil's total number of days of exclusion to more than five in a term, the Disciplinary Panel must consider any representations made by parents, but it cannot direct reinstatement and is not required to arrange any subsequent meetings with parents.

The Disciplinary Panel will:

- Only discuss the exclusion with the parties present at the meeting.

- Ask for any evidence to be submitted in writing, six school days prior to the meeting. Any evidence submitted after this date will be considered at the discretion of the Chair of the Disciplinary Panel.
- Circulate any written evidence and information to all parties, no less than five school days prior to the meeting.
- Allow pupils and parents/carers to be accompanied by a person of their choice at the meeting.
- Consider what reasonable adjustments need to be made to support the attendance and contribution of all parties at the meeting.
- Identify the steps needed to enable and encourage the excluded pupil to attend the meeting and speak on his/her behalf, or how he/she may contribute personal views by other means if attendance is not possible.
- Consider the interests and circumstances of the excluded pupil, including whether the punishment is proportionate to the offence, whether there is a strong likelihood of recurrence and whether other pupils involved received the same punishment.
- Only discuss and consider the exact reason for exclusion at the meeting. Any other matters, will need to be referred to and considered under other established school policies and procedures, e.g. the school's Complaints Policy.

Disciplinary Panel will apply the civil standard of proof when responding to the facts relating to an exclusion, i.e. that 'on the balance of probabilities' it is more likely than not that the facts are true.

In order to reach a decision, the Disciplinary Panel will:

- Identify the steps they intend to take to ensure that all parties involved will have the opportunity to participate and present their views.
- Ensure that minutes are taken of the meeting as a record of the evidence that was considered.
- Ask all parties to withdraw from the meeting before concluding their decision.
- Consider whether the exclusion of the pupil was lawful, proportionate and fair, taking into account the Head Teacher's legal duties.
- Record the outcome of the decision on the pupil's educational records, along with copies, which will be kept for at least six months.
- Make a note of their findings, where they have considered an exclusion but cannot reinstate the pupil.

In the event of exceptional circumstances which prohibit a member of the Disciplinary panel

#### **Notification of considered exclusions**

The LGB will notify the parents/carers of the excluded pupil, the Head Teacher and the Local Authority of their decision following the consideration of an exclusion, in writing and within 24 hours.

If the Disciplinary Panel decide to uphold the decision for permanent exclusion, they will notify the parents/carers:

- That it is permanent, and their right for it to be reviewed by an independent review panel.
- Of the date by which an application for review must be made.
- Of the name and address of whom the review application should be submitted to.
- That any application should set out the grounds on which it is being made and that, where appropriate, this should include reference to how a pupil's SEN are considered relevant to the exclusion.
- That, regardless of whether a pupil has been identified as having SEN, the parents/carers have a right to require the Governing Body to ensure a SEN specialist attends the review.

- Of the role of the SEN expert that will attend the review, and that the parents/carers will not be charged for this.
- That they are required to make it clear if they wish for an SEN expert to attend the review.
- That they may appoint someone at their own expense to make independent review panel.

If the Disciplinary Panel believe an exclusion has been issued as a result of discrimination, they are required to make a claim under The Equality Act 2010, and that this should be within six months of when the discrimination allegedly took place, ensuring the parents/carers are notified within 24 hours of this assessment being made.

### **The Trust's duty to arrange an Independent Review panel**

If an appeal against the Disciplinary Panel's decision is received within the legal time frame, the Trust will arrange for an Independent Review Panel (IRP) hearing to review the decision.

The legal time frame for an application is:

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

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

The IRP will be constituted with either three or five members, fitting the following criteria:

- A lay member to Chair the IRP
- One (or two for a 5 member IRP) school governor who have served as a governor for at least 12 consecutive months in the last five years, provided they have not been teachers or the Head Teacher during this time, and
- One (or two for a 5 member IRP) Head Teacher or individual who has been a Head Teacher within the last five years.

A new clerk will also be appointed to support the IRP.

The purpose and remit of this panel is to conclude with one of the following decisions:

1. Uphold the governing board's decision; or
2. Recommend that the governing board reconsiders reinstatement; or
3. Quash the decision and direct that the governing board reconsiders reinstatement.

When considering the Disciplinary Panel's decision, in light of the principles applicable in an application for judicial review, the IRP should apply the following tests:

- Illegality – did the LGB act outside the scope of its legal powers in deciding that the pupil should not be reinstated?
- Irrationality – did the governing board rely on irrelevant points, fail to take account of all relevant points, or make a decision so unreasonable that no LGB acting reasonably in such circumstances could have made it?

- Procedural impropriety – was the LGB’s consideration so procedurally unfair or flawed that justice was clearly not done?

If any of these criteria are met then the IRP can quash the decision of the Disciplinary Panel and direct that they consider the exclusion again.

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

In all other cases the IRP should uphold the exclusion when:

- There is no further right of appeal against the decision of an Independent Review Panel. However, there are two ways that the decision may be challenged:
- If you feel that the review IRP process was unfairly run, you may be able to take this further by complaining about maladministration by the IRP. A successful complaint may result in a recommendation that a new IRP should be arranged, but the decision to uphold the exclusion cannot be overturned. The body this complaint should be made to will depend on the type of school involved

#### **Appointing a Special Educational Needs expert**

If requested by parents/carers in their application for an IRP, the trust must appoint a Special Educational Needs (SEN) expert to attend.

The Trust must make arrangements to indemnify the SEN expert against any legal costs and expenses reasonably incurred as a result of any decisions or actions connected to the review and which are taken in good faith.

Parents/carers have a right to request the attendance of a SEN expert at a review, regardless of whether the school recognises that their child has SEN.

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

The focus of the SEN expert’s advice should be on whether the school’s policies which relate to SEN, or the application of these policies in relation to the excluded pupil, were lawful, reasonable and procedurally fair (in line with the guidance to panels in paragraph 159). If the SEN expert believes that this was not the case, they should, where possible, advise the panel on the possible contribution that this could have made to the circumstances of the pupil’s exclusion.

Where the school does not recognise a pupil as having SEN, the SEN expert should advise the panel on whether they believe the school acted in a legal, reasonable and procedurally fair way with respect to the identification of any SEN that the pupil may potentially have, and any contribution that this could have made to the circumstances of the pupil’s exclusion.

The SEN expert will not criticise a school's policies or actions simply because they believe a different approach should have been followed or because another school might have taken a different approach.

### **Removing a Pupils Name from the School Register**

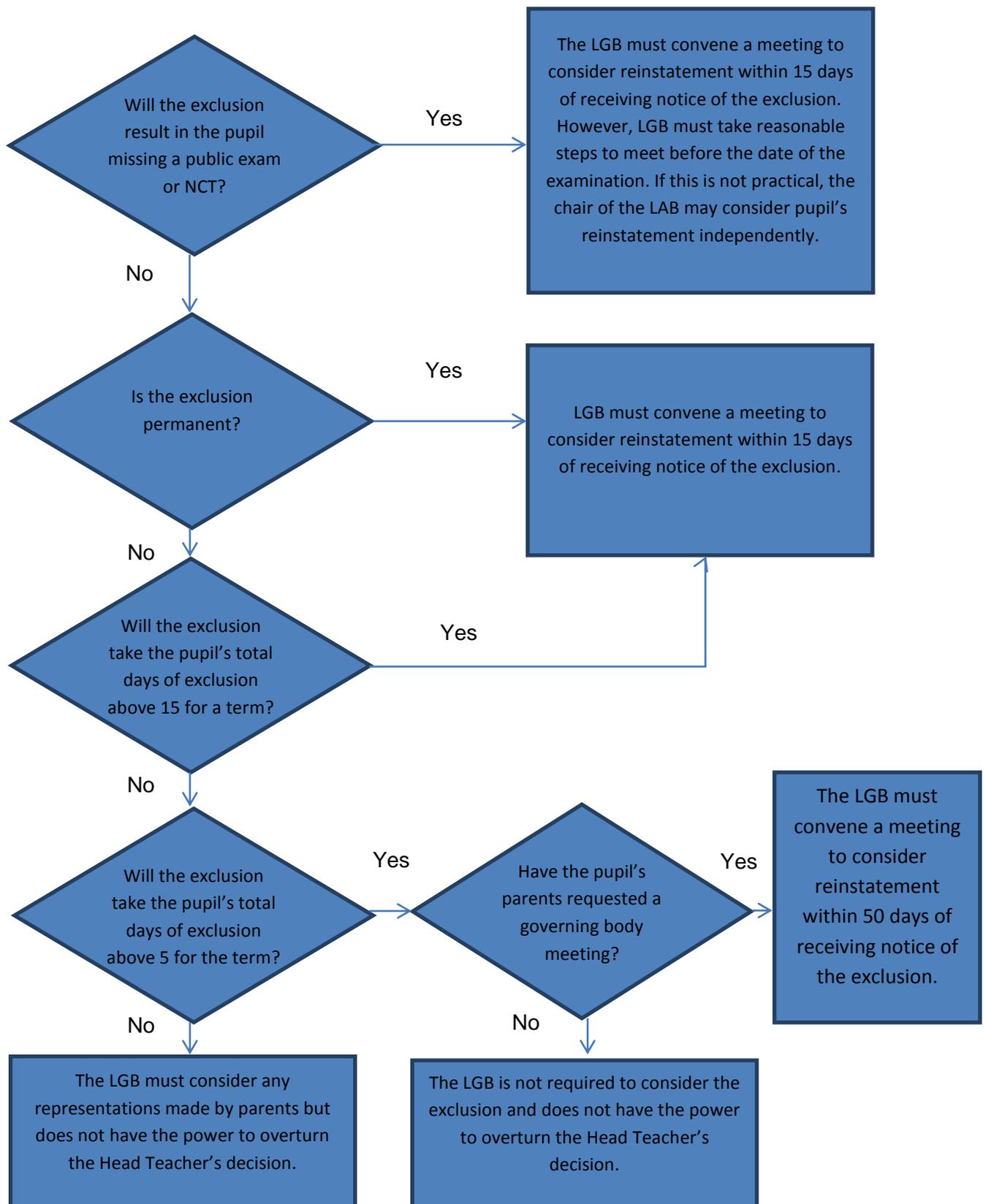
The Principal/Head Teacher must remove a pupil's name from the admissions register if:

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

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

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.

Appendix 1: Summary of LGB duties to review a decision to exclude



## Appendix 2; Model Letter for Exclusion

### Date

Dear

I am writing to inform you of my decision to exclude ??? for a fixed period of ??? day/s. This means that s/he will not be allowed in school for this period. The exclusion begins on date ?? and ends in the evening.

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude ??? has not been taken lightly. S/he has been excluded for this fixed period because on this occasion INSERT REASON You have a duty to ensure that your child is not present in a public place in school hours during this exclusion on the following days unless there is reasonable justification for this. I must advise you that you may receive a penalty notice from the local authority 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 have the right to make representations about this decision to the governing body. If you wish to make representations please contact ??? the Clerk to the Governors, C/O the School 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.

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 Special Educational Needs and Disability Tribunal (SENDIST). The address to which appeals should be sent is SENDIST, Mowden Hall, Staindrop Road, Darlington DL3 9DN.

You and ??? are requested attend a reintegration interview with ??? and ??? at School. Currently this meeting is scheduled for date and time. The purpose of the reintegration interview is to discuss how best your child's return to school can be managed. Failure to attend a reintegration interview will be a factor taken into account by a magistrates' court if, on future application, they consider whether to impose a parenting order on you.

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

**You may wish to contact (Name), Inclusion and Attendance Adviser, (Address), (Telephone No) and (email address), who can provide advice, who can provide advice.** You may also find it useful to contact the Advisory Centre for Education (ACE) — an independent national advice centre for parents of children in state schools. They offer information and support on state education in England and Wales, including on exclusion from school. They can be contacted on 020 7704 9822 or at [www.ace-ed.org.uk](http://www.ace-ed.org.uk). Statutory guidance on Exclusion can be accessed on the following link [www.education.gov.uk/schools/pupilsupport/behaviour/exclusion](http://www.education.gov.uk/schools/pupilsupport/behaviour/exclusion)

??? exclusion expires on Date??? after school and we expect her/him to be back in school as usual on date

Yours sincerely

???

Head Teacher