



# EXCLUSION POLICY

Review Date	August 2023
Ratified by	Trust Board
Date Ratified	<i>Working document – pending Board approval</i>
Due for Review	August 2024
Dissemination	Policy for whole Trust

## Document Control – Policy Amendments

Date	Version	Summary of Changes	Reviewer/s
Versions pre-July 2022 in place, with annual review. No version control recorded prior to July 2022			
July 2022	1.0	Version updated to reflect changes in DfE guidance. Updated logo.	Karen Jarvis, Head of Corporate Services
August 2023	2.0	Updated to reflect changes in DfE guidance. Reformatted, standardised & numbered. Role of central Trust emphasised Advice for holding Hearings remotely Attendance at Hearings by social workers & VSHs Tightening of rules around cancelling suspensions/exclusions – and who to notify Clarity on timelines for panels to meet Advice on reintegration meetings Clarity on the role of the clerk What to do if a pupil is over the age of 18	Karen Jarvis, Head of Corporate Services

## **EXCLUSION POLICY**

### **CONTENTS**

	Page
Aims	4
Legislation & Statutory Guidance	4

### **POLICY SECTIONS**

1.	Serious Incidents of Misbehavior leading to fixed term or permanent exclusion	5
2.	Responsibilities of the Headteacher	6
3.	Informing Parent(s) / Carer(s) & Others about Suspensions & Exclusions	8
4.	Informing the Active Learning Trust	9
5.	Informing Social Workers & Virtual School Heads	10
6.	Informing the Local Authority	10
7.	Informing the Pupil Discipline Committee	11
8.	Responsibilities of the Discipline Committee	11
9.	Remote Access to meetings	13
10.	Remit of the Panel	14
11.	The Role of the Pupil Discipline Committee	15
12.	After the Meeting – suspensions & Permanent Exclusions	16
13.	Independent Review Panels	16
14.	Arranging an Independent Review Panel	17
15.	Role of the Clerk at an Independent Review Panel	18
16.	Procedure at an Independent Review Panel	18
17.	Evidence & Witnesses	20
18.	Record of the Proceedings of an Independent Review Panel	21
19.	After the Hearing	21
20.	Reintegration Strategy	22
21.	Reintegration Meetings	23
22.	School Registers	23
23.	Reporting to the Local Authority	24
24.	Monitoring Arrangements	24
25.	Training for Independent Review Panel Members	25
26.	Links with other Policies	26
27.	Policy Review	26

## Aims

The Active Learning Trust is committed to following all statutory exclusions procedures to ensure that every child receives an education in a safe and caring environment.

Active Learning Trust schools aim to:

- Ensure that the exclusions process is applied fairly and consistently
- Help governors, staff, parents and pupils understand the exclusions process
- Ensure that pupils in school are safe and happy
- Prevent pupils from becoming NEET (not in education, employment or training)
- Ensure all suspensions and permanent exclusions are carried out lawfully

## 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 in England, including pupil movement - from September 2023](#).

It is based on the following legislation, which outlines schools' powers to exclude pupils:

- Section 51a of the Education Act 2002, as amended by the Education Act 2011
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012

In addition, the policy is based on:

- Part 7, chapter 2 of the [Education and Inspections Act 2006](#), which sets out 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](#)

**Policy for managing serious incidents of misbehaviour leading to suspension or permanent exclusion**

**1. Action to be invoked by senior staff in serious disciplinary matters.**

1.1. When a serious incident occurs, a senior member of staff, normally a member of the Leadership Team, must interview pupils to ascertain the details of the incident. If the nature of the incident is extremely serious or involves issues of a sexual nature, then at least two staff members, one of each gender, should be present to conduct the interview. The pupil should be questioned and given ample opportunity to give a response. The pupil should be encouraged to provide a written statement of what happened and offered the opportunity to sign this as an authoritative record of events. At this stage the report will help to decide what further action should be undertaken. If appropriate, witness statements should also be taken in written form (these may be scribed) and signed by the witness.

1.2. In discharging their duties the Headteacher and Governors will have regard to DfE guidance on exclusions.

1.3. A decision to suspend a pupil will only be taken

- In response to serious breaches of the School's Behaviour Policy
- If allowing the pupil to remain in the school would seriously harm the learning or welfare of the pupil, other pupils or staff
- In cases where there has been a major breach of normal expectations of conduct and/or a breach of the criminal law

1.4. Before excluding a child, in almost all cases, a range of alternative strategies will have been tried. However, where a one-off incident of sufficient gravity has taken place, this may not apply.

**1.4. Off-Rolling and unlawful exclusions**

The Active Learning trust schools are 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."*

Off-rolling, a form of unlawful exclusion, can include using 'undue influence' over a parent to:

- Remove their child under threat of permanent exclusion
- Encourage them to choose elective home education or find another school Place for their child

Ofsted will consider any evidence of off-rolling and is likely to judge a school inadequate where it appears:

- Pupils have left the school without formal processes
- Parents have been encouraged to remove their children
- School leaders haven't taken sufficient action to address the above

1.5. We will not suspend or suspend 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

## **2. Responsibilities of the Headteacher**

2.1. The Headteacher alone (or his/her designate, if he/she is absent) has the power to suspend pupils.

2.2. In considering the exclusion of a pupil the Headteacher should ensure that the following process is followed:

- a thorough investigation is undertaken
- all the relevant facts and firm evidence to support the allegations are considered
- the Behaviour Rewards, Strategies and Sanctions Policy (including the Equal Opportunities and Anti Bullying policies) of the school/academy are taken into account

- a check is made as to whether an incident appeared to be provoked by racial or sexual harassment
- all pupils involved have the opportunity to give their version of events
- Pupils should be given the opportunity to express their views (with the support of advocates if needed). They should be informed of how their views will be taken into account in reaching a decision.
- other people or agencies, as appropriate, are consulted, except where they may be involved in any appeal related to the exclusion
- time has been given to addressing and supporting the pupil's individual needs within the capabilities of the School.

2.3. Before deciding to permanently suspend a pupil the Headteacher will first implement the strategies outlined in the Behaviour Policy, including suspension. Only when other strategies have been tried without success will the Headteacher consider permanent exclusion. Except, or notwithstanding (2.4) below, where a one-off incident of sufficient gravity has taken place a permanent exclusion may be instigated.

2.4. There are occasions when the severity of the offence will merit permanent exclusion, even when there has been no prior record of poor behaviour.

2.5. The Headteacher may suspend a pupil for up to 45 school days in any academic year. Any suspension beyond 45 school days will be permanent. However before that point is reached the Headteacher will have held discussions with the Local Authority with a view to arranging an appropriate placement in another school or Pupil Referral Unit (PRU). From Day 6, pupils will be accessing the resources at a designated Centre. Any Looked after Children will receive education at the designated Centre from Day 1.

2.6. The Headteacher will aim for the shortest possible period of suspension but in all cases, a suspension plan will be made to

- Enable the pupil to continue their education;
- Use the time to address the pupil's needs
- Examine the process of reintegration.

2.7. Legislation does not allow for extending a suspension or 'converting' a suspension into a permanent exclusion. In exceptional cases, usually where further evidence has come to light, a further suspension may be issued to begin immediately after the first period ends; or a permanent exclusion may be issued to begin

immediately after the end of the fixed term.

2.8. Legislation does allow for the behaviour of a pupil outside of school to be considered as grounds for a suspension. Any decision of a headteacher, including suspension or permanent exclusion, must be made in line with the principles of administrative law, i.e. that is is lawful, reasonable, fair and proportionate. It should also align with rules outlined in the school Behaviour Policy.

2.8. **Cancelling suspensions and permanent exclusions.** The headteacher may cancel a suspension or permanent exclusion that has already begun, or one that has not yet begun, but only where it has not yet been reviewed by the governing board. Where there is a cancellation:

- The parents (or the pupil if they are 18 or older), governing board and LA will be notified without delay
- Where relevant, any social worker and VSH will be notified without delay
- The notification must provide the reason for the cancellation
- The governing board's duty to hold a meeting and consider reinstatement ceases
- Parents (or the pupil if they are 18 or older) will be offered the opportunity to meet with the headteacher to discuss the cancellation, which will be arranged without delay
- The pupil will be allowed back in school without delay

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

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

### 3. **Informing Parent(s)/carer(s) and others about the suspension / exclusion**

3.1. **Parents and Carers.** The Headteacher will make sure that the Parent(s)/carer(s) are notified immediately by telephone which will be followed by a letter within one school day. The parent/carers may be asked to collect the pupil from the school immediately but where this is not possible, the suspension will normally begin on the next school day.

3.2. Letters about suspensions and permanent exclusions will explain:

- Why the Headteacher decided to suspend/exclude the pupil
- The arrangements for enabling the pupil to continue their education, including setting and marking the pupil's work. This will involve the school setting and

marking work for the first 5 days following an exclusion.

- The Parent(s)/carer(s) right to state their case to the Governing Body's Discipline Committee.
- Who the Parent(s)/carer(s) should contact if they wish to state their case (usually the Clerk to the Discipline Committee).
- The latest date the Parent(s)/carer(s) can put a written statement to the Discipline Committee.
- The Parent(s)/carer(s) right to see and have a copy of their child's record.
- If the suspension is for a **fixed period**, the length of the suspension and the date and time the pupil should return to the school.
- If the exclusion is **permanent**, the date the permanent exclusion takes effect, and details of any relevant previous warnings, fixed period exclusions or other disciplinary measures taken before the present incident.
- That for the first 5 days of an exclusion (or until the start date of any alternative provision or the end of the suspension, where this earlier), the 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.
- For any suspension of more than 5 school days, arrangements for suitable full-time education for the pupil. This provision will begin no later than the sixth day of the suspension. *NB: the governing board of secondary schools does not have to arrange such provision for pupils in their final year of compulsory education who do not have any further public exams to sit.*

3.3. In the case of a suspension, the headteacher must inform parents on how their child will be reintegrated once the period of exclusion has ended. The school must have a clear reintegration strategy that offers pupils a fresh start and helps them re-engage with learning. This strategy should be communicated clearly at any reintegration meeting, preferably with parents or carers present.

#### 4. Informing the Active Learning Trust

4.1. The headteacher is expected to discuss any potential permanent exclusion with the CEO (or representative) of the Active learning Trust.

## **5. Informing Social Workers and/or Virtual School Heads.**

5.1. In addition to informing parents and carers, the headteacher must also inform any social worker or virtual school head (VSH) attached to the pupil as soon as possible if a pupil is at risk or suspension or permanent exclusion.

Pupil is at risk. 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 pupil's ability to sit a National Curriculum test or public examination.
- They have decided to cancel a suspension or permanent exclusion, and why (where relevant).

5.2. 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 that may have influenced the circumstances of their suspension or permanent exclusion. The social worker should also help ensure safeguarding needs and risks and the pupil's welfare are taken into account.

## **6. Informing the Local Authority**

6.1. The local authority must be informed without delay of all school exclusions regardless of the length of the exclusion. For a permanent exclusion, if the pupil lives outside the local authority area in which the school is located, the headteacher must also notify the pupil's 'home authority' of the permanent exclusion without delay.

6.2. Notifications must include the reason(s) for the suspension or permanent exclusion and the duration of any suspension or, in the case of a permanent exclusion the fact that it is permanent.

6.3. The Headteacher must notify the LA, without delay, of any cancelled exclusions,

including the reason the exclusion was cancelled.

## **7. Informing the Discipline Committee**

7.1. Responsibilities regarding exclusions are delegated to a Pupil Discipline Committee.

7.2. The Pupil Discipline Committee has a duty to consider parents'/the pupil's (if they are 18 or older) representations about a suspension or permanent exclusion. It has a duty to consider the reinstatement of a suspended or permanently excluded pupil in certain circumstances.

7.3. The Headteacher will inform the Chair of the Governing Body's Discipline Committee of:

- all permanent exclusions, including when a suspension is followed by a decision to permanently exclude a pupil.
- All suspensions which result, in the pupil being suspended or permanently excluded for a total or more than five school days (or more than ten lunchtimes) in a term.
- Any suspensions or permanent exclusion which would result in the pupil missing a National Curriculum test or public exam.
- Any suspension or permanent exclusion that has been cancelled,

7.4. The Governors do not have the right to suspend a pupil but will review the use of suspensions and exclusions on a regular basis. The Governing Body will establish a Discipline Committee and when the need arises an Independent Appeal Panel.

## **8. The Role of the Discipline Committee**

8.1. The Discipline Committee will consist of at least three Governors who will review the use of suspensions within the school. This includes considering the views of the parent(s)/carer(s) of a suspended pupil, and deciding whether or not to uphold suspensions of more than five school days or those where a pupil would miss an opportunity to take a public examination. The Governing Body will appoint a clerk to the Discipline Committee to provide advice on the exclusions process and to handle the administrative arrangements for considering exclusions and suspensions.

8.2. If the suspension is for five school days or fewer the Discipline Committee will not

direct reinstatement but will consider any statement from the parent(s)/carer(s). If the suspension causes the pupil to miss sitting a public examination the Discipline Committee will meet before the public examination where possible. Where a public examination is concerned, if it is not practical for the Discipline Committee to meet, the Chair of the Committee will consider the suspension and/or exclusion. Alternative arrangements to allow a suspended pupil to take public examinations will be considered.

8.3. The Governing Body will establish a discipline panel of three members to hear cases of:

- a. Permanent exclusions and initial suspensions that result in permanent exclusions;
- b. Suspensions totaling more than five school days in any one term, where the parent expresses a wish to make formal representations to the governing body.
- c. Exclusions/Suspensions which would result in the loss of an opportunity to take any public examination.

8.4. The panel must meet to:

- a. Consider the circumstances in which the pupil was suspended;
- b. Consider any representations made by the parent
- c. Consider whether the pupil should be reinstated immediately, reinstated by a particular date or not reinstated.

8.5. In the case of a suspension which would result in the pupil being suspended from the school for a total of five days or more in any one term, the governing body (or discipline panel) must meet to consider any representations made by the parent. In such cases, the governing body cannot direct reinstatement of the pupil.

8.6. The regulations set statutory time limits for the discipline panel's consideration of exclusions and suspensions.

8.7. In the case of permanent exclusion and one or more suspensions totaling more than 15 days in any one term (where parents wish to make representation) the panel must meet no earlier than 6 school days and no later than 15 school days after receiving notification of the suspension.

8.8. In the case of one or more suspensions totaling more than 5 days but not more than 15 school days in any one term (where the parent wishes to make

representations) the panel must convene between the 6<sup>th</sup> and the 50<sup>th</sup> school day after receiving notification of the suspension.

8.9. Where a pupil may miss a public examination as a result of the exclusion or suspension, the panel must, if practical, consider the exclusion before the pupil is due to take the examination.

8.10. In the case of a suspension which would result in a pupil being suspended for a total of 5 days or less in a term (and the parent has made representations to the governing body), there is no statutory time limit, but the governors would be expected to meet within a reasonable timescale.

8.11. In reaching their decision on whether to direct reinstatement, the panel is required to have regard to any guidance given by the Secretary of State. They should have regard to any representations made by the parent, and whether the Headteacher has complied with the procedure and has had regard to the Secretary of State's guidance. If they decide that a pupil should not be reinstated, they must inform the parent, the Headteacher and the LA of their decision. In the case of a permanent exclusion, they must notify the parent in writing of their decision and the reason for it. Their letter must also advise the parent of his or her right to appeal against their decision; whom to contact; the last date for lodging an appeal; and that the notice of appeal should set out the grounds of appeal.

8.12. Unless there are strong reasons to refuse, the chair of the Discipline Committee should allow the suspended pupil to attend the meeting and present their case if the parent(s)/carer(s) and the pupil ask for this. But the parent(s)/carer(s) formally remain the appellant unless the pupil is 18 or over.

8.13. Pupils over the age of 18 are entitled to act on their own behalf at any proceedings.

## **9. Remote access to meetings**

9.1. Parents, or pupils if they are 18 or older, can request that a Pupil Discipline meeting, or independent review panel be held remotely. If the parents/pupil don't express a preference, the meeting will be held in person.

9.2. In case of extraordinary or unforeseen circumstances, which mean it is not reasonably practicable for the meeting to be held in person, the meeting will be held remotely. Remotely accessed meetings are subject to the same procedural requirements as in-person meetings.

9.3. The governing board and the Active Learning Trust should make sure that the following conditions are met before agreeing to let a meeting proceed remotely:

- All the participants have access to the technology which will allow them to hear, speak, see and be seen
- All the participants will be able participate fully
- The remote meeting can be held fairly and transparently

9.4. Social workers and the VSH always have the option of joining remotely, whether the meeting is being held in person or not, as long as they can meet the conditions for remote access listed above.

9.5. The meeting will be rearranged to an in-person meeting without delay if technical issues arise that can't be reasonably resolved and:

- Compromise the ability of participants to contribute effectively, or
- Prevent the meeting from running fairly and transparently

## **10. Remit of the Panel**

10.1. If the pupil has been readmitted before the Discipline Committee meets, the meeting still enables the parent(s)/carer(s) to give their views. The Discipline Committee can also consider whether more information should be added to the pupil's record.

10.2. If the pupil is still suspended when the meeting takes place, the Discipline Committee should decide whether to direct re-instatement. In reaching their decision the Committee should:

- a) consider the parent(s)/carer(s) statements;
- b) have regard to the guidance on the appropriate use of exclusion in DfE *Circular 10/99* and in the school's Behaviour Rewards, Strategies and

Sanctions Policy, and consider whether the Headteacher has tried sufficient approaches to improve a pupil's behaviour before resorting to exclusion, and whether any further strategies might be an alternative to exclusion.

c) Whether allowing the pupil to be readmitted would seriously harm the learning or welfare of other pupils or staff.

## **11. The Role of the Discipline Committee in Permanent Exclusion Cases**

11.1. For permanent exclusion, the Discipline Committee should normally satisfy itself that all possible strategies to improve a pupil's behaviour were tried without success. Strategies should include those in DfE guidance, including a support programmes. For children with statements of SEND, revising the statement might be better than resorting to exclusion.

11.2. For permanent exclusions the Discipline Committee will consider the exclusion and decide whether the pupil should be reinstated. Such consideration will take account of the pupil's disciplinary record and the likely impact of their continued attendance.

11.3. The Discipline Committee may not attach conditions to the re-instatement of a pupil.

11.4. If the Discipline Committee upholds the Headteacher's decision to suspend a pupil permanently, it will write within one school day to the parent(s)/carer(s):

- a) giving the reasons for the decision;
- b) explaining the parent(s)/carer(s) right to appeal to an Independent Appeals Panel to which the parent(s)/carer(s) can make oral and written statements;
- c) giving the name and address of the person the parent(s)/carer(s) should contact if they wish to appeal, explaining that any notice of appeal should explain the grounds of appeal and stating the latest date for giving notice (15 school days from the date of the Discipline Committee's decision). The parent(s)/carer(s)/pupil over the age of 18 has the right to appeal to the panel even if they did not make a case to the Discipline Committee.

11.5. If the Discipline Committee upholds a decision to suspend a pupil permanently it will notify the Local Authority in writing of this decision within one school day of the hearing. The Discipline Committee's decision on suspensions is final. In the case of permanent exclusions, parent(s)/carer(s) may appeal to an Independent Appeals Panel.

## **12. After the meeting – Suspensions and Permanent Exclusions**

12.1. A note of the Discipline Committee's views shall normally be placed on the pupil's record with a copy of the Headteacher's suspension/exclusion letter.

## **13. Independent Review Panels**

13.1. Parent(s)/carer(s) whose child is suspended permanently from the school have the right to present to an independent review panel, providing they apply within the legal time frame. If applied for, the Trust must arrange an Independent Review Panel to review the decision of a governing body not to reinstate a permanently suspended pupil.

13.2. The Independent Appeal Panel will comprise three or five independent panel members representing each of the categories below plus a clerk appointed by the Trust.

- A lay member (who should Chair the Panel) who is not working in any school in a paid capacity, disregarding any experience as a school governor or volunteer
- One (or two if the Panel has five members) school governor who has served as a governor for at least 12 consecutive months in the last five years, provided they have not been a teacher or Headteacher during this time
- A Headteacher or individual (or two if the Panel has five members) who has been a Headteacher within the last five years

13.3. Individuals may not serve as a member of the Independent Review Panel if they:

- Are a Director of the academy trust or governing body of the excluding school
- Are the Headteacher of the excluding school or anyone who has held this position in the last five years
- Are an employee of the academy trust or the governing body 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 academy trust, school, parents or pupil, or the incident leading to the exclusion, that might reasonably be taken to cast doubts on their ability to act with impartiality
- Have not had received training within the last two years (see Section 25).

13.4. Any request for an Independent Review Panel must be lodged in writing to the Central Office of the Active Learning Trust within 15 school days from the date the parent(s)/carer(s) receives notice of the decision. The panel should meet as soon as possible but normally within 15 days of the notification of appeal.

13.4. In the event of a permanent exclusion the Local Authority will be notified promptly

once the exclusion is confirmed.

#### **14. Arranging an Independent Review Panel**

14.1. The letter from the Clerk to the Discipline Committee will inform the parent(s)/carer(s) of their right to an Independent Review Panel appeal following the decision of the Discipline Committee not to re-instate the permanently suspended pupil. The letter will give the name and contact details for the Clerk (who will not be the same person as the Clerk to the Discipline Committee) and explain that the parent(s)/carer(s) request for an Independent Review Panel must be in writing and set out the grounds of appeal. The letter will tell the parent(s)/carer(s) that the final date for lodging an appeal will be 15 school days from the date the parent(s)/carer(s) receives notice.

14.2. The day on which the parent(s)/carer(s) is given notice will be taken to be the second school day after the date of posting by registered post, or where the notice is hand-delivered, the date of delivery (unless a different date of receipt can be demonstrated). No request will be accepted if it is made after the final date for lodging a request

14.3. The Independent Review Panel will not reinstate pupils purely on minor 'technicalities' relating to prior procedure, where they are persuaded on the merits of the case that the exclusion was justified and would not otherwise direct that the pupil should be reinstated. The Independent Review Panel will rather consider afresh the question of whether the pupil should be reinstated.

14.4. The Independent Review Panel will meet within 15 school days of the date the parent(s)/carer(s) lodges notice of appeal.

14.5. Those entitled to attend a hearing and present their case are:-

- The Parent /carer, who may be represented by a legal or other representative.
- The Pupil.
- The Headteacher, who may make oral representations.
- A nominated member of the Discipline Committee, who may make oral representations.
- A legal or other representative of the Discipline Committee.

14.6. The Headteacher and Governing Body may also make written representations. Wherever possible, the Clerk will make available all written evidence to the panel members and the Parent(s)/carer(s) four working days in advance of the hearing. The pupil, if he/she or his/her Parent(s)/carer(s) so request, will be allowed to attend the hearing and speak on his/her own behalf, unless there is good reason to refuse.

## **15. Role of the Clerk**

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

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

## **16. Procedure at the Hearing**

16.1. The Independent Review Hearing will not be held at the school unless agreed by all parties. The Independent Review Panel will do everything possible to establish an atmosphere of informality where the parties can present their cases effectively.

16.2. The remit of the Independent Review Panel is to consider whether the pupil should be re-instated.

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

- The broader interests of other pupils and staff in the school, as well as those of the excluded pupil;
- The academies' published Behaviour Rewards, Strategies and Sanctions Policy;
- Where other pupils were involved in the same incident and were also disciplined, the fairness of the permanent exclusion in relation to the sanctions imposed on

the other pupils involved.

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

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

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

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

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

16.9. If the Independent Review Panel wishes to vary the notified procedure, they should only do so after hearing the views of all the parties present and entitled to make representations.

16.10. Sufficient time will be allowed for each party to put its case. The panel should

ensure that parent(s)/carer(s) are given the opportunity to comment on relevant information. Care must be taken to ensure that no party attending the hearing is present alone with the Independent Review Panel in the absence of the others.

16.11. In exceptional cases the panel may adjourn to a later date. If there is an adjournment, it is essential that no part of the proceedings take place other than in the presence of all the panel members.

## **17. Evidence and Witnesses**

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

17.2. The Independent Review Panel cannot compel witnesses to attend and any witnesses must therefore appear before it voluntarily. The Independent Review Panel may wish to call witnesses who saw the incident or behaviour which gave rise to the exclusion. They may also wish to call a teacher or teachers (other than the Headteacher) who investigated the incident and interviewed pupils. The Headteacher has the right to make written representations to the panel and to appear and make oral representations.

17.3. Where adult witnesses are unwilling to appear in person or are unavailable, the panel must rely on their written statements, copies of which will have been circulated to all parties by the clerk before the hearing.

17.4. In the case of witnesses who are pupils of the School it will generally be appropriate for the panel to rely on their written statements. Pupils may, however appear as witnesses in person if they do so voluntarily and their parent(s)/carer(s) consent. All written witness statements must be attributed and signed, except in cases where the school has good reason to wish to protect the anonymity of pupils. In such cases the statement will not be attributed and some names may be blanked out. The general principle remains that someone accused of something is entitled to know the substance and the source of the accusation. If any witnesses are going to appear in person, all parties need to know the details in advance of the day of the hearing.

17.5. The calling of character witnesses is at the discretion of the panel, but should be allowed unless there is good reason to refuse. It is for the panel to decide whether

any witnesses, having given evidence, should remain for the remainder of the presentation of the case.

17.6. If any of the parties intend to raise matters or produce documents at the hearing which are not covered by the statement of decision or the notice of appeal, these should be submitted to the clerk to the Independent Review Panel in good time before the hearing. If substantial new issues are raised for the first time at the hearing, an adjournment may be necessary to allow all parties to consider the issues.

17.7. An Independent Review Panel, when directing re-instatement, may specify a future date rather than an immediate return; perhaps to allow for support arrangements to be put in place. But the date of re-instatement should be reasonable in all the circumstances. The Independent Review Panel cannot attach conditions to the re-instatement of a pupil.

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

## **18 Record of the proceedings of an Independent Review Panel**

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

## **19 After the Hearing**

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

19.2. If the Independent Review Panel upholds the permanent exclusion, the clerk should immediately report this to the Local Authority. The clerk should also advise the parent(s)/carer(s) to contact the Local Authority about arrangements for their child's

continued education. The Headteacher should remove the pupil's name from the school roll the day after the conclusion of the review.

19.3. Where the Independent Review Panel direct re- instatement they should immediately inform the Headteacher of their decision and specify the date on which the pupil must be readmitted.

19.4. Details of exclusions may not be deleted from the pupil record, where exclusion is a matter of fact. The Trust must, however comply with any parent(s)/carer(s)/Pupil over the age of 18 request to append their review statement to the pupil's record. It will be for the Trust to decide what details of the exclusion are included in the pupil's school record: copies of the Headteacher correspondence should be included and possibly the minutes of the Discipline Committee and Independent Review Panel hearings, if the Discipline Committee and Independent Review Panel respectively agree to this.

## **20 Reintegration Strategy**

20.1. Following suspension, or cancelled suspension or exclusion, the school will put in place a strategy to help the pupil reintegrate successfully into school life and full-time education.

20.2. Where necessary, the school will work with third-party organisations to identify whether the pupil has any unmet special educational and/or health needs.

The following measures may be implemented, as part of the strategy, to ensure a successful reintegration into school life for the pupil:

- Maintaining regular contact during the suspension or off-site direction and welcoming the pupil back to school
- Initial daily contact in school with a designated pastoral professional
- Mentoring by a trusted adult or a local mentoring charity
- Regular reviews with the pupil and parents to praise progress being made and raise and address any concerns at an early stage
- Informing the pupil, parents and staff of potential external support
- Informing the pupil, parents and staff of potential issues and seeking a way to resolve them

20.3. Part-time timetables should not be used as a tool to manage behaviour and, if used, will be put in place for the minimum time necessary

20.4. The strategy will be regularly reviewed and adapted where necessary throughout

the reintegration process in collaboration with the pupil, parents, and other relevant parties.

## **21 Reintegration Meetings**

21.1. The school will clearly explain the reintegration strategy to the pupil in a reintegration meeting before or on the pupil's return to school. During the meeting the school will communicate to the pupil that they are getting a fresh start and that they are a valued member of the school community.

21.2. The pupil, parents, a member of senior staff, and any other relevant staff will be invited to attend the meeting.

21.3. The meeting can proceed without the parents in the event that they cannot or do not attend.

21.4. The school expects all returning pupils and their parents to attend their reintegration meeting, but pupils who do not attend will not be prevented from returning to the classroom.

## **22 School Registers**

22.1. A pupil's name will be removed from the school admission register if:

- 15 School days have passed since the parents/pupil (if they are 18 or older) were notified of the Pupil Discipline Committee's decision to not reinstate the pupil and no application has been made for an independent review panel, or
- The parents/pupil have stated in writing that they will not be applying for an independent review panel

22.2. Where an application for an independent review has been made within 15 school days, the governing board will wait until that review has concluded before removing a pupil's name from the register.

22.3. While the pupil's name remains on the school's admission register, the pupil's attendance will still be recorded appropriately. 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.

23.1. 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.

23.2. 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.

## **24 Monitoring Arrangements**

24.1. The Active Learning Trust 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

24.2. The data will be analysed annually by the Head of Corporate Services. The Head of Corporate Services will report back to the Trustees, via the CEO of the Active Learning Trust. 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

24.3. 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.

24.4. The Active Learning Trust will work with its academies to consider this data, and to analyse whether there are patterns across the Trust, recognising that numbers in any one academy may be too low to allow for meaningful statistical analysis

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

24.6. School Local Governing Bodies will review, challenge and evaluate the data on the school's use of suspension, exclusion, off-site direction to alternative provision, and managed moves. The LGB 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

## 25. Training for Independent Review Panel Members

25.1. The Active Learning Trust will 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

## 26. Links with other policies

26.1. This policy will be considered alongside:

- School behaviour policies
- SEND policy
- SEN information report

## 27. Policy Review

This policy is reviewed annually.

This policy complies with the funding agreement and Articles of Association

