

The Bishop Wheeler Catholic Academy Trust



Policy

Suspension and Permanent Exclusion Policy

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The Bishop Wheeler Catholic Academy Trust



Our Mission

Outstanding Catholic education for all pupils. As a family of schools, we will enable our young people to develop spiritually, morally, intellectually and personally, putting their faith into action, through serving Christ in others, in the church and in the world around them.

This policy was approved by the Trust Board

Signature:

Mrs Diane Gaskin

Chair Trust Board

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Definitions

'BWCAT/We and Trust' refers to The Bishop Wheeler Catholic Academy Trust.

'The Trust Board' means the Board of Directors for the Trust.

'Academy Council' means local governing body of the individual school.

'Governors' means the governors appointed to the Academy Council of the individual school.

'Headteacher' means the lead person in each school, this includes the Executive Headteacher/Headteacher/Head of School/Acting Headteacher.

'Virtual School Head' (VSH) means the lead person within the Local Authority for Looked After Children and Previously Looked After Children.

'Schools' refers to all schools within BWCAT.

'Pupil' refers to any pupil on roll at any of the BWCAT schools.

'Parents' refers to any person who holds parental responsibility for the child.

'child' and 'children' refer to children and young people under the age of 18 years.

'Staff' means all employees, temporary, casual, agency and contracted staff working for the Trust, volunteers and consultants.

The term **must** refer to what Headteachers/Academy Councils/Trust Board/Local Authorities/Parents and others are required to do by law. The term **should** refers to recommendations for good practice.

The definition of **suspend** in this policy is what is described in the legislation as an exclusion for a fixed period.

'Alternative Provision' (AP) refers to suitable full-time education that is arranged for a pupil from the sixth school day (or earlier) of a suspension or from the sixth school day (or earlier) after the first day of a permanent exclusion.

'Academic year' means a school's academic year beginning with the first day of school after 31 July and ending with the first day of school after the following 31 July.

'IRP' means Independent Review Panel.

SECTION A

Purpose

The purpose of this Suspension and Permanent Exclusion Policy is to outline the approach the Bishop Wheeler Catholic Academy Trust (BWCAT) will take in relation to the suspension and permanent exclusion of a pupil.

As a Trust, it is understood that good behaviour and discipline is essential for promoting a high quality education and ensuring a school is a calm, orderly and safe environment that supports all pupils to succeed. In the search for excellence and human flourishing, the Trust promotes good behaviour, self-discipline and respect so each child can achieve their full potential. Behaviour expectations are underpinned by the desire to live virtuously. The Trust promotes high standards of behaviour and pupil conduct based on mutual respect, dignity and worth. It is our desire to help our pupils develop a growing maturity in which motivation is intrinsic.

Amongst other disciplinary sanctions, the Trust recognises that the suspension or permanent exclusion of a pupil may be necessary where there has been a serious breach, or consistent breaches, of the school's behavioural policy. The Trust is committed to promoting and safeguarding the welfare of all pupils and staff, and so permanently excluding a pupil may also be required in instances where allowing the pupil to remain in school would be damaging to the education and welfare of themselves or others in the school. In all cases, suspension and permanent exclusion should only be used when necessary and as a last resort.

The Trust has created this policy to:

- ensure a high quality of education is maintained and pupils and staff are safe
- clearly define the legal responsibilities of the Headteacher, Academy Council, Academy Trust and Local Authority (LA) when responding to pupil suspensions or permanent exclusions
- ensure that suspensions or permanent exclusions are lawful, rational, reasonable, fair, proportionate and consistently in line with DFE statutory guidance
- ensure there is no discrimination against pupils on the basis of protected characteristics
- ensure particular consideration is given to the fair treatment of pupils from groups who are vulnerable to suspension or permanent exclusion
- ensure appropriate educational provision is in place and the pupil's right to an education despite having been suspended or permanently excluded is maintained
- ensure consideration is given to any causal factors and intervene early in order to reduce the need for any subsequent suspensions or permanent exclusions
- ensure that suspension and permanent exclusions are only used when necessary and as a last resort.

This policy is to be read in conjunction with each school's:

- Anti-Bullying Policy
- Behaviour Policy
- Child Protection and Safeguarding Policy
- SEND Policy

This policy takes into account the Department for Education (DFE) statutory guidance on 'Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement' (May 2023).

SECTION B

The Headteachers Power to suspend or Permanently Exclude

The Headteacher is responsible for implementing good levels of discipline to ensure all pupils can benefit from the opportunities provided by education and to minimise potential suspensions or permanent exclusions. The Headteacher will also ensure the fair and consistent implementation of the suspension and permanent exclusion policy and is responsible for all decisions on whether or not to suspend or permanently exclude a pupil.

The Headteacher may delegate to other senior leaders the arrangements for the support of pupils in danger of suspension or permanent exclusion, re-integration of pupils returning to school after a suspension, implementation of behaviour improvement strategies or plans, liaising with parents/social workers/virtual school head, liaising with the LA and alternative provision (AP) providers.

Before a Headteacher makes a decision to suspend or permanently exclude a pupil they will consider the information in this policy and consider the checklist as outlined in the supporting documents for Headteachers and Academy Councils.

The Headteachers Power to use Exclusion:

- Only the Headteacher of a school can suspend or permanently exclude a pupil and this must be on disciplinary grounds.
- A pupil may be suspended for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or be permanently excluded.
- The behaviour of a pupil outside of school can be considered grounds for a suspension or permanent exclusion.
- Any decision of a school, including suspension or permanent exclusion, must be made in line with the principles of administrative law, i.e., that it is: lawful (with respect to the legislation relating directly to suspensions and permanent exclusions and a school's wider legal duties, including the Human Rights Act 1998, the Children and Families Act 2014 and the Equality Act 2010); reasonable; fair; and proportionate.

- When establishing the facts in relation to a suspension or permanent exclusion decision, the Headteacher 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 take account of their legal duty of care when sending a pupil home following a suspension.
- Under the Equality Act 2010 (the Equality Act), schools must not discriminate against, harass or victimise pupils because of: sex; race; disability; religion or belief; sexual orientation; pregnancy/maternity; or gender reassignment. For disabled children, this includes a duty to make reasonable adjustments to policies and practices and the provision of auxiliary aids.
- Schools must also ensure that their policies and practices do not discriminate against pupils by unfairly increasing their risk of suspension or permanent 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 and Academy Council must comply with their statutory duties in relation to SEN when administering the suspension or permanent exclusion process including using their ‘best endeavours’ to ensure the appropriate special educational provision is made for pupils with SEN and having regard to the SEND Code of Practice.
- The Headteacher 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 suspension or permanent exclusion must never be used to influence parents to remove their child from the school.

Suspensions:

- A pupil may be suspended for one or more fixed periods (up to a maximum of 45 school days in a single academic year). A suspension does not have to be for a continuous period.
- A suspension can also be for parts of the school day. For example, if a pupil’s behaviour at lunchtime is disruptive, they may be suspended from the school premises for the duration of the lunchtime period. The legal requirements relating to the suspension, such as the Headteacher’s duty to notify parents, apply in all cases.
- Lunchtime suspensions are counted as half a school day for statistical purposes and in determining whether an Academy Council meeting is triggered.

- When the Headteacher suspends or permanently excludes a pupil they must, without delay, and no later than three days after their decision, notify parents. If a pupil has a social worker, or if a pupil is looked-after, the Headteacher must, also without delay, and no later than three days after their decision, notify the social worker and/or Virtual School Head (VSH), the LA, as applicable

Permanent Exclusions:

- A permanent exclusion is when a pupil is no longer allowed to attend a school (unless the pupil is reinstated). The decision to exclude a pupil permanently should only be taken:
 - In response to a serious breach or persistent breaches of the school's behaviour policy; and
 - Where allowing the pupil to remain in school would seriously harm the education or welfare of the pupils or staff in the school.
- The law 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 initial suspension.
- For any permanent exclusion, the Headteacher will take reasonable steps to ensure that work is set and marked for pupils during the first five school days where the pupil will not be attending alternative provision. Any appropriate referrals to support services or notifying key workers (such as a pupil's social worker, VSH, LA) will also be made

Withdrawing Suspensions and Permanent Exclusions

The headteacher can cancel any exclusion that has already begun (or one that has not yet begun), but this can only happen when the Academy Council has not yet met to consider whether the pupil should be reinstated. Where an exclusion is cancelled:

- The headteacher must notify the parents, the Academy Council, the LA and the pupil's social worker and VSH as applicable, without delay. The notification must also provide the reason for the cancellation;
- The Academy Council's duty to consider reinstatement ceases, and there is no requirement to hold a meeting to consider reinstatement;

- Parents (or the excluded pupil if they are 18 years or older) should be offered the opportunity to meet the headteacher to discuss the circumstances that led to the exclusion being cancelled which should be arranged without delay;
- The pupil must be allowed back into the school from which they were excluded 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.

Setting a clear process for exclusions

Headteachers should consider the following, when setting a clear process for exclusions:

- Adopting a reliable method for monitoring the 45-day suspension rule, including suspensions received from other schools.
- Ensuring there is a formal process for informing the parents, social worker (where relevant), Academy Council and local authority (depending on length of the suspension or if it is a permanent exclusion for any pupil), clearly setting out all reasons for the exclusion.
- Providing up-to-date links to sources of impartial advice for parents.
- Reintegrating suspended or permanently excluded pupils and support pupils' future behaviour.
- Ensuring a formal process for arranging, at short notice, suitable full-time alternative education for pupils receiving suspensions over five school days.

Reasons and recording exclusions

Examples of unacceptable behaviour and serious breaches of the school's behaviour policy may include:

- Physical assault against a pupil
- Physical assault against an adult
- Verbal abuse or threatening behaviour against a pupil
- Verbal abuse or threatening behaviour against an adult
- Use or threat of use of an offensive weapon or prohibited item that has been prohibited by the school's behaviour policy
- Bullying
- Racist abuse
- Sexual misconduct
- Abuse against sexual orientation and gender reassignment

- Abuse relating to disability
- Inappropriate use of mobile phones or social media
- Drug and alcohol related incidents
- Damage
- Theft
- Health and safety incidents such as deliberately tampering with safety equipment (e.g. fire extinguisher/fire alarm)
- Bringing banned items or substances onto the school site

This is not an exhaustive list and the Headteacher will use their own professional judgement based on the individual circumstances to make a decision regarding suspending or permanently excluding a pupil.

The school will provide information via the school census on pupils subject to any type of suspension or permanent exclusion in the previous two terms. Up to three reasons can be recorded for each suspension or permanent exclusion.

The Headteachers duty to inform parties about an exclusion

To ensure that a child receives the correct support and safeguarding during a suspension or permanent exclusion, it is important that those responsible for their care are promptly informed when such exclusions occur or there is a risk of them occurring.

Following the Headteachers decision to suspend or permanently exclude a pupil, they will, without delay, and no later than three days after their decision, notify parents of the period of the suspension or permanent exclusion and the reason(s) for it. This may be a telephone call in the first instance from a senior member of staff and then followed by a formal written notification from the Headteacher no later than three days after the decision. Headteachers to use the supporting documents and Checklist.

The Headteacher will provide parents with the following information in writing:

- The reason(s) for the suspension or permanent exclusion.
- The period of a suspension or, for a permanent exclusion, the fact that it is permanent.
- Parents' right to make representations about the suspension or permanent exclusion to the Academy Council and how the pupil may be involved in this.
- How any representations should be made.
- Where there is a legal requirement for the Academy Council (See Section C) to consider the suspension or permanent exclusion, that parents or a pupil if they are 18 years old have a right to attend a meeting, to be represented at that meeting (at their own expense) and to bring a friend.
- Parents' (or an excluded pupil if they are 18 years or older) right to make a request to hold the meeting via the use of remote access and how and to whom to make this request.

Written notification of the information mentioned above can be provided by delivering it directly to the parents, leaving it at their usual or last known home address, or posting it to that address. Notices can be given electronically if the parents have given written agreement for the notice to be sent in this way.

Where a suspended or permanently excluded pupil is of compulsory school age the Headteacher must also notify the pupil's parents of the days on which they must ensure that the pupil is not present in a public place at any time during school hours.

These days would be the first five school days of a suspension or permanent exclusion (or until the start date of any full-time alternative provision or the end of the suspension where this is earlier). Any parent who fails to comply with this duty without reasonable justification commits an offence and may be given a fixed penalty notice or be prosecuted. The Headteacher must notify the parents of the days on which their duty applies without delay and, at the latest, by the end of the afternoon session on the first day of the suspension or permanent exclusion.

If an alternative provision is being arranged, then the following information must be included with this notice where it can reasonably be found out within the timescale:

- The start date for any provision of full-time education that has been arranged for the child during the suspension or permanent exclusion.
- 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.

Where this information on alternative provision is not reasonably ascertainable by the end of the afternoon session on the first day of the suspension or permanent exclusion, it may be provided in a subsequent notice, but it must be provided 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 information can be provided with less than 48 hours' notice with parents' consent.

The information above will be provided in writing but can be provided by any effective method. It should be noted that a notice is not made invalid solely because it has not been given by the required time.

If a child is suspended again following their original suspension, or is subsequently permanently excluded, the Headteacher must inform parents and where relevant, the

pupil's social worker or local authority if the pupil has an EHCP, without delay and issue a new exclusion notice to parents and the social worker.

When notifying parents about a suspension or permanent exclusion, the Headteacher will set out what arrangements have been made to enable the pupil to continue their education prior to the start of any AP or the pupil's return to school.

For notifications, effective methods for providing the written information may include email or text message, giving the notice directly to the parents, or sending the information home with the suspended or permanently excluded pupil. Where information is sent home with the pupil, the Headteacher will consider sending a duplicate copy by an alternative method or confirming that the information has been received.

When notifying parents about a suspension or permanent exclusion, the Headteacher will draw attention to relevant sources of free and impartial information.

- A link to this statutory guidance on exclusions (<https://www.gov.uk/government/publications/school-exclusion>)
- Coram's Child Law Advice service can be accessed through their website <https://childlawadvice.org.uk/information-pages/school-exclusion> or contacted on 0300 330 5485 from Monday to Friday, 8am – 6pm
- ACE education run a limited service and can be reached on 0300 0115 142 on Monday to Wednesday from 10am to 1pm during term time. Information can be found on the website: <http://www.ace-ed.org.uk/>
- Independent Provider of Special Education Advice (known as IPSEA – www.ipsea.org.uk) is a registered charity. It offers free and independent information, advice and support to help get the right education for children and young people with all kinds of special educational needs (SEN) and disabilities
- Autism Education Trust (AET), via the National Autistic Society (NAS) operates a helpline and advice service for parents whose child is at risk or has been excluded. They also provide guidance and advice for education professionals on good practice and the law with regard to autistic children/young people and exclusion. Contact 0207 903 3660. Website: autismeducationtrust.org.uk.
- SEN Information Advice & Support Services Network (formerly known as the local parent partnership).

SECTION C

Factors to Consider before Making a Decision to Permanently Exclude

The Headteacher will consider the following options prior to making the decision to permanently exclude a pupil:

- Further in school intervention and/or outreach support.
- A high quality alternative provision (AP) time-limited option to manage behaviour intervention. Any use of AP will be based on an understanding of the support a child or young person needs in order to improve their behaviour, as well as any SEND.
- An off-site direction (temporary measure that maintained schools and academies for similar purposes can use). The purpose of this would be to improve future behaviour. Depending on the individual needs and circumstances of the pupil, off-site direction into AP can be full-time or a combination of part-time support in AP and continued mainstream education. Page 22 of guidance
- Managed move (permanent measure) as a preventative measure to a permanent exclusion. A managed move should only be offered as a permanent transfer, and only when the pupil has been attending the proposed new school under an off-site direction and a review of the direction has established that the pupil has settled well into the school and should remain there on a permanent basis. Under exceptional circumstances, such as a safeguarding concern, it may be appropriate for a pupil at any mainstream school to transfer to another mainstream school as a managed move, but this should only happen when it is in the pupil's best interest. Managed moves should be a permanent move, voluntary and agreed with all parties involved, including the parents and the admission authority of the new school. Where a pupil has an EHC plan, the relevant statutory duties on the new school and local authority will apply. If the current school is contemplating a managed move, it should contact the LA at an early stage.

If one of the above options is deemed appropriate, the nature of the intervention, its objectives, and the timeline to achieve these objectives will be clearly defined and agreed with the provider. This will be communicated in writing to the parents and social worker and/or VSH if applicable.

The plan will then be frequently monitored and reviewed and parents will be invited to take part in all review meetings along with other relevant professionals/agencies. The length of time a pupil spends in another mainstream school or AP will depend on what best supports the pupil's needs and potential improvement in behaviour. The length of time a pupil spends in another mainstream school or AP and the re-integration plan will be kept under review. The pupil will continue to receive a broad and balanced education; this will support re-integration back into mainstream schooling.

Off-rolling and unlawful exclusions

Telling or forcing a pupil to leave school, or not allowing them to attend school, is a suspension (if temporary) or permanent exclusion (if permanent). Whenever a pupil is made to leave school, or forbidden from attending school, on disciplinary grounds, this must be done in accordance with the School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 and with regard to relevant parts of this policy.

Suspending a pupil for a short period of time, such as half a day, is permissible, however, the formal suspension process must be followed. Each disciplinary suspension and permanent exclusion must be confirmed to the parents in writing with notice of the reasons for the suspension or permanent exclusion.

An informal or unofficial exclusion, such as sending a pupil home 'to cool off', is unlawful when it does not follow the formal school exclusion process and regardless of whether it occurs with the agreement of parents. Any exclusion of a pupil, even for short periods of time, must be formally recorded. It would also be unlawful to exclude a pupil simply because they have additional needs or a disability that the school feels it is unable to meet, or for a reason such as: academic attainment/ability; or the failure of a pupil to meet specific conditions before they are reinstated, such as to attend a reintegration meeting.

However, a pupil who repeatedly disobeys their teachers' academic instructions could be subject to exclusion. If any of these unlawful exclusions are carried out and lead to the deletion of a pupil's name from the register, this is known as 'off-rolling'.

A further example of off-rolling would be putting pressure on a parent to remove their child from the school under the threat of a permanent exclusion and encouraging them to choose Elective Home Education or to find another school place.

If a parent feels pressured into electively home educating their child or that the suspension or permanent exclusion procedures have not been followed, they can follow the school's complaints procedure

Ofsted considers any evidence of off-rolling and is likely to judge a school as inadequate if there is evidence that pupils have been removed from the school roll without a formal permanent exclusion or by the school encouraging a parent to remove their child from the school, and Headteachers have taken insufficient action to address this.

SECTION D

Re-integration after a Suspension, Reinstatement or Off-Site Direction

The school will have a strategy for reintegrating a pupil who returns to school following a suspension or after a period of being educated off-site and for managing their future behaviour. This is so the pupil can be supported to successfully readjust back into a normal routine. This will include ensuring a re-integration meeting takes place between e.g. senior staff members, pastoral inclusion staff, mentors, teachers, pupils, parents, or where relevant, other multi-agency organisations such as the safer schools team or the pupil's social worker, if they have one, to ensure a successful return into mainstream school or other suitable provision.

During this re-integration meeting, it may be appropriate to discuss with the pupil the reasons that led to the sanction being used and setting targets they can report back on with relevant staff, e.g. form teacher/tutor/pastoral inclusion mentor. As far as possible, the school will work with the pupil, so they can understand the impact of their behaviour on their own learning and that of others, and how to improve their behaviour in the future. The school will communicate to the pupil that they are valued, and their previous behaviour should not be seen as an obstacle to future success.

A pupil will not be prevented from returning to a mainstream classroom if parents are unable or unwilling to attend a re-integration meeting. The re-integration meeting will go ahead with the pupil even if parents are unable or unwilling to attend. Minutes will be taken of the re-integration meeting which will be distributed to all relevant parties after the meeting has taken place.

SECTION E

Arranging Educational Provision

For the first five days of a suspension, the school will take steps to ensure that work is set and marked for a pupil. This can include utilising any online pathways/resources.

Reasonable adjustments to support a SEND pupil will be made.

For a suspension of more than five school days, the Academy Council along with the Headteacher will arrange suitable full-time education for any pupil of compulsory school age. This provision will begin no later than the sixth school day of the suspension. Where a child receives consecutive suspensions, then education will be arranged for the sixth school day of suspension, regardless of whether this is as a result of one decision to suspend or multiple decisions to suspend the pupil for several periods.

The LA is responsible for the educational provision of pupils who have been permanently excluded and will arrange suitable full-time education for the pupil to begin no later than the sixth school day of the permanent exclusion. This will be the pupil's 'home authority' in cases where the school is maintained by (or located within) a different LA. The LA will have regard to the relevant statutory guidance when carrying out its duties in relation to the education of LAC. Where a LAC is permanently excluded, the school will document the provision of immediate suitable education in the child's PEP.

Where a pupil has an EHC plan, the LA may need to review the plan or reassess the child's needs, in consultation with parents, with a view to identifying a new placement.

It is to be noted that educational provision does not have to be arranged by either the school or the LA for a pupil in the final year of compulsory education who does not have any further public examinations to sit.

The education of pupils prior to the sixth day of an exclusion

It is important for schools to help minimise the disruption that suspension or permanent exclusion can cause to a pupil's education. Whilst the statutory duty on the Academy Council is to arrange full-time education from the sixth day of a suspension or permanent exclusion, there is an obvious benefit in starting this provision as soon as possible. In particular, in the case of a looked-after child or child with a social worker, the school and the local authority should work together to arrange alternative provision from the first day following the suspension or permanent exclusion.

Where it is not possible, or not appropriate, to arrange alternative provision during the first five school days of a suspension or permanent exclusion, the school should take reasonable steps to set and mark work for the pupil.

The Chair of the Academy Council in liaison with the Headteacher should ensure that there are clear processes in place to comply with its legal duty to arrange suitable full-time educational provision for pupils of compulsory school age from the sixth consecutive school day of a suspension. This includes:

- Checking that there is a process in place for the Academy Council to assure itself that the education provided is suitable and full-time.
- Quality assuring provision, and ensuring that any previous placements been evaluated, including in relation to support for any SEND the pupil may have.
- Checking whether there is a process in place to monitor the pupil's attendance and behaviour at the provision.
- Checking whether the correct attendance code is being used.
- Checking whether the pupil's child protection file and any other information relevant to the pupil's safeguarding and welfare has been securely transferred to their new setting as early as possible, in line with Keeping children safe in education 2021 (publishing.service.gov.uk).

SECTION F

Safeguarding (including guidance concerning pupils who have abused another pupil - commonly known as child-on child abuse)

The school has a statutory duty to make arrangements for safeguarding and promoting the welfare of pupils. The school will have regard to Keeping Children Safe in Education. Furthermore, the school will co-operate with safeguarding partners once designated as relevant agencies. Equally, safeguarding partners are expected to name schools as relevant agencies and engage with them in a meaningful way.

The school will make decisions on a case-by-case basis, with the Designated Safeguarding Lead (DSL) (or a deputy) taking a leading role and using professional judgement, supported by other agencies, such as children's social care and the police as required.

If there is an ongoing safeguarding investigation (whether that includes a criminal investigation or not) that may result in the permanent exclusion of a pupil or if a pupil has been reinstated following an Academy Council review, it is likely that there will be complex and difficult decisions that need to be made. These decisions will be made alongside a school's duty to safeguard and support children and provide an education.

Parents cannot agree to waive the requirements of the Regulations and relevant regulations must always be followed when a pupil is made to leave or is forbidden from attending on disciplinary grounds.

Section 5 of Keeping Children Safe in Education sets out the safeguarding process for cases of reports that relate to rape or assault by penetration and those that lead to a conviction or caution: "When there has been a report of sexual violence, the designated safeguarding lead (or a deputy) should make an immediate risk and needs assessment. Where there has been a report of sexual harassment, the need for a risk assessment should be considered on a case-by-case basis."

As always when concerned about the welfare of a child, the best interests of the child will come first. In all cases, the school will follow general safeguarding principles as found in Keeping Children Safe in Education.

SECTION G

Pupils with SEND and Educational Health Care Plans (EHC plan)

The school will consider reasonable adjustments for disabled pupils. This duty can in principle apply both to the suspension and permanent exclusion process and to the disciplinary sanctions imposed.

The school and Academy Council will use their 'best endeavours' to ensure the appropriate special educational provision is made for pupils with SEN, which will include any support in relation to behaviour management that they need because of their SEN.

The school will engage proactively with parents in supporting the behaviour of pupils with additional needs and where the school has concerns about the behaviour, or risk of suspension and permanent exclusion, of a pupil with additional needs, a disability or an EHC plan it will, in partnership with others (and where relevant the LA), consider what additional support or alternative placement may be required. This should involve assessing the suitability of provision for a pupil's SEN or disability.

Where a pupil has an EHC plan, the school will contact the LA about any behavioural concerns at an early stage and consider requesting an early annual review prior to making the decision to suspend or permanently exclude. For those without an EHC plan, the school will review, with external specialists as appropriate, whether the current support arrangements are appropriate and what changes may be required. This may provide a point for schools to request an EHC assessment or a review of the pupil's current package of support, which may then be increased.

SECTION H

Pupils who have a Social Worker, including Looked after Children (LAC), and Previously Looked after Children (PLAC)

The Headteacher will always balance the reality of the contextual circumstances of a LAC/PLAC with the need to ensure a calm and safe environment for all pupils and staff, so will attempt to devise strategies that take both of these aspects into account.

Where a pupil has a social worker, e.g. because they are the subject of a Child in Need Plan or a Child Protection Plan, and they are at risk of suspension or permanent exclusion, the Headteacher will inform their social worker, the DSL and the pupil's parents to involve them all as early as possible in relevant conversations.

Where a LAC is likely to be subject to a suspension or permanent exclusion, the Designated Teacher (DT) will contact the LA's VSH as soon as possible. The VSH, working with the DT and others, will consider what additional assessment and support need to be put in place to help the school address the factors affecting the child's behaviour and reduce the need for suspension or permanent exclusion. Where relevant, the school will also engage with a child's social worker, foster carers, or children's home workers.

All LAC will have a Personal Education Plan (PEP) which is part of the child's care plan or detention placement plan. This should be reviewed every term and any concerns about the pupil's behaviour should be recorded, as well as how the pupil is being supported to improve their behaviour and reduce the likelihood of suspension or permanent exclusion being necessary.

For PLAC who are on the path to being suspended or permanently excluded, the school will engage with the child's parents and the school's DT. The school may also seek the advice of the VSH on strategies to support the pupil.

SECTION I

Duty to Inform Social Workers and Virtual School Heads (VSH)

The school will be proactive in sharing information as early as possible to help identify, assess, and respond to risks or concerns about the safety and welfare of children. Whenever the Headteacher suspends or permanently excludes a pupil, they will, without delay, and no later than three days after their decision, also notify the social worker, if a pupil has one, and the VSH, if the pupil is a LAC, of the period of the suspension or permanent exclusion and the reason(s) for it.

The information in will be provided in writing to the LA. Both the social worker and VSH should, as far as possible, attend the Academy Council meeting if there is one, in order to share information.

Social workers and VSHs, must be allowed to join a Academy Council meeting or IRP via the use of remote access, regardless of the format chosen, as long as the Academy Council (for a Academy Council meeting) or Academy Trust (for a review panel meeting) are satisfied they will be able to participate effectively, they can hear and be heard (and see and be seen if participating by video) throughout the meeting, and their remote participation will not prevent the meeting being fair and transparent.

SECTION J

Duty to Inform the Academy Council and Local Authority

The Headteacher will, without delay, notify the Academy Council and the Local Authority (LA) of:

- any permanent exclusion (including where a suspension is followed by a decision to permanently exclude the pupil)
- any suspension which would result in the pupil being suspended for a total of more than five school days (or more than ten lunchtimes) in a term
- any suspension or permanent exclusion which would result in the pupil missing a public examination or national curriculum test.

For a permanent exclusion, if the pupil lives outside the LA area in which the school is located, the Headteacher will also notify the pupil's 'home authority' of the permanent exclusion and the reason(s) for it without delay.

Notifications will 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.

The Headteacher should ensure that they have informed the Academy Council about reinstatement and specify the correct timescale. They should also make clear to the Academy Council whether the need to consider reinstatement is dependent on receiving parental representations.

The Headteacher should liaise with the Chair of the Academy Council and Clerk to the Academy Council to ensure there are clear processes in place for considering suspensions and permanent exclusions, such as:

- Ensuring parents and pupil are aware of their right to a consideration by the Academy Council.
- The Academy Council has liaised with the Clerk to find a convenient date that the parent, other relevant parties, the local authority representative (if relevant) and the Headteacher can attend, within the legal time limits.
- The Academy Council has considered how to involve the pupil in the consideration process.
- The Clerk has collected all relevant documents, anonymising them, if required, and providing them to all parties.

When removing a pupil from the school roll, the Academy Council will ensure this is done under the circumstances prescribed by the Education (Pupil Registration) (England) Regulations 2006, as amended. If applicable, the pupil's name should be removed from the school roll at the appropriate time.

SECTION K

Academy Council Considering Suspension or Permanent Exclusion Decisions

The Academy Council is responsible for considering parents' representations about a suspension or permanent exclusion decision made by the Headteacher.

For a suspension of more than five school days, the Academy Council along with the Headteacher will arrange suitable full-time education for any pupil of compulsory school age. This provision will begin no later than the sixth school day of the suspension.

The Academy Council will also monitor and analyse suspension and permanent exclusion data.

The Academy Council may delegate to a smaller sub-committee (Exclusion Committee) consisting of at least 3 Governors, including the Chair of Governors.

The Committee must consider and decide on the reinstatement of a suspended or permanently excluded pupil within 15 school days of receiving notice from the Headteacher of the suspension or permanent 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.

The requirements are different for suspensions where a pupil would be suspended for more than five but less than 16 school days in a term.

In this case, if the parents make representations, the Academy Council will consider and decide within 50 school days of receiving the notice of suspension whether the suspended pupil should be reinstated. In the absence of any representations from the parents, the Academy Council can consider reinstatement on their own.

Where a suspension or permanent exclusion would result in a pupil missing a public examination or national curriculum test, there is a further requirement for an Academy council to, so far as is reasonably practicable, consider the suspension or permanent exclusion before the date of the examination or test. If it is not practicable for a sufficient number of Academy Council members to consider the decision before the examination or test, the suspension or permanent exclusion may be considered by a smaller sub-committee if the Trust's articles of association allow them to do so.

The following parties must be invited to a meeting of the Academy Council and allowed to make representations:

- Parents (and, where requested, a representative or friend).
- The pupil if they are 18 years or over.

- The Headteacher.
- The child's social worker if the pupil has one.
- The VSH if the child is LAC.

The Academy Council will make reasonable endeavours to arrange the meeting for a date and time that is convenient to all parties, but in compliance with the relevant statutory time limits. The decision will not be invalid on the grounds that it was not made within the time limits.

In the case of a suspension which does not bring the pupil's total number of days of suspension to more than five in a term, the Academy Council will consider any representations made by parents, but it cannot direct reinstatement and is not required to arrange a meeting with parents. There is also no deadline for this. However, if this does occur, then it should happen within a reasonable amount of time.

Taking into account, the pupil's age and understanding, the pupil or their parents should also be made aware of their right to attend and participate in Academy Council meetings and the pupil should be enabled to make a representation on their own behalf if they wish to do so.

The diagram below details a summary of the Academy Councils duties to review the Headteachers exclusion decision.

Conditions of exclusion

Academy Council duties

Does the exclusion meet any of the following conditions?

- It is a permanent exclusion
- It is a suspension that alone, or in conjunction with previous suspensions, will take the pupil's total number of days out of school above 15 for a term
- Will the suspension or permanent exclusion result in the pupil missing a public exam



Yes

The Academy Council must convene a meeting to consider reinstatement **within 15 school days** of receiving notice of the suspension or permanent exclusion.

*If the pupil will miss a public exam or national curriculum test, the Academy Council must take reasonable steps to meet **before** the date of the examination. If this is not practical, the chair of governors may consider pupil's reinstatement alone.



NO

Will the suspension(s) take the pupil's total number of school days out of school above five but less than 16 for the term?



NO

The Academy Council must consider any representations made by parents but does not have the power to decide whether to reinstate the pupil.

YES

Have the pupil's parents requested an Academy Council meeting?



Yes

The Academy Council must convene a meeting to consider reinstatement within 50 school days of receiving notice of the suspension.



NO

The Academy Council is not required to consider the suspension but does have the power to consider the reinstatement of the pupil.

When the Academy Council is legally required to consider the reinstatement of a suspended or permanently excluded pupil, the Academy Council (or sub-committee) will:

- Only discuss the suspension or permanent exclusion with the parties present at the meeting.
- Ask for any written evidence prior to the meeting, including witness statements and other relevant information held by the school such as those relating to a pupil's SEN and the pupil's school record.
- Where possible, circulate any written evidence and information to all parties, at least five school days in advance of the meeting. The Academy Council Clerk will co-ordinate the circulation of papers.
- Allow parents and the pupil to be accompanied by a friend, representative at the meeting (where a pupil under 18 is to be invited as a witness, the Academy Council should first seek parental consent).
- Invite the pupil's social worker, if they have one, and if the pupil is LAC, the VSH to attend
- Consider what reasonable adjustments need to be made to support the attendance and contribution of parties at the meeting.
- Identify the steps needed to enable and encourage the suspended or permanently excluded pupil to attend the meeting and speak on their own behalf, or how they may contribute personal views by other means if attendance is not possible.
- Consider both the interests and circumstances of the suspended or permanently excluded pupil, and that of other pupils, staff, and school community as a whole.
- Consider any representation made by or on behalf of:
 - Parents of the pupil if they are under 18 years' old
 - The Headteacher
 - The pupil's social worker if the pupil has one
 - If the pupil is looked after, the VSH
- 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'.

Missing a Public Examination or National Curriculum Test

Whilst there is no automatic right for a suspended or permanently excluded pupil to take a public examination or national curriculum test on the school's premises, the Academy Council will consider whether it would be appropriate to exercise its discretion to allow a suspended or permanently excluded pupil onto the premises for the sole purpose of taking the examination or test or whether this could be facilitated in another way.

Reaching a Decision

After considering a suspension or permanent exclusion, the Academy Council (or sub-committee) will either:

- decline to reinstate the pupil
- direct reinstatement of the pupil immediately, or on a particular date

Where a reinstatement meeting would make no practical difference because, for example, the pupil has already returned to school following the expiry of a suspension or the parents make clear they do not want their child reinstated, the Academy Council must still meet to consider whether the pupil should or would have been officially allowed back into the school. Ideally a reinstatement meeting should happen as soon as possible and should ideally be held before the pupil is back in school.

If the Academy Council decide against the reinstatement of a pupil who has been permanently excluded parents can request an independent review.

To reach a decision, the Academy Council (or sub-committee) will:

- Identify the steps they intend to take to ensure that all parties involved will have the opportunity to participate and present their views. This is particularly important where pupils aged under 18 are speaking about their own suspension or permanent exclusion or giving evidence to the Academy Council.
- Ensure that minutes are taken of the meeting as a record of the evidence that was considered by the Academy Council. These minutes should be made available to all parties on request and the record of discussion should state clearly how the decisions have been reached.
- The Chair of governors should ask all parties to withdraw from the meeting 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 Academy Council should consider whether the suspension or permanent exclusion of the pupil was lawful, reasonable and procedurally fair, taking into account the welfare and safeguarding of the pupil and their peers, the Headteachers legal duties and any evidence that was presented to the Academy Council in relation to the decision to suspend or permanently exclude.
- The Academy Council will record the outcome of the decision and will request that the school adds this to the pupil's educational records, along with copies, which will be retained in line with the Trust's Record Management Policy.
- The Academy Council will make a note of their findings, where they have considered a suspension or permanent exclusion but cannot reinstate the pupil, this record should be kept on the pupil file and will be retained in line with the Trust's Record Management Policy.

Notification of Considered Suspension or Permanent Exclusion

The Academy Council will notify parents or the pupil if they are 18 years or over, the Headteacher, and where relevant, the pupil's social worker and/or the VSH of its decision, and the reasons for it, in writing and without delay. Where the pupil resides in a different LA area from the one in which the school is located, the Academy Council will also inform the pupil's 'home authority'.

In the case of a permanent exclusion, where the Academy Council decides not to reinstate the pupil, they will notify the parents:

- That the exclusion is permanent, and their right for it to be reviewed by an independent review panel.
- The date by which an application for review must be made, which should be 15 school days from the date on which notice in writing of the Academy Councils decision is given to parents.
- The name and address of whom the review application should be submitted to. The review application should be submitted to:

Mrs Jemma Johnson
Trust Head of Governance
j.johnson@bwcat.org
The Bishop Wheeler Catholic Academy Trust
Bradford Road, Menston
LS29 6AE

- 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 SEND are considered relevant to the exclusion.
- That, regardless of whether a pupil has been identified as having SEND, the parents have a right to require the Academy Council to ensure a SEND expert attends the review. Parents are required to make it clear if they wish for a SEND expert to attend the review.
- Details of the role of the SEND expert that will attend the review, and that the parents will not be charged for this.
- That parents may appoint someone at their own expense to make representations to the panel.

The Academy Council will also notify parents that, if they believe suspension or permanent exclusion has been issued as a result of discrimination, then they are required to make a claim under the Equality Act 2010 to the First-tier Tribunal (SEND), and that this should be within six months of when the discrimination allegedly took place.

After any conclusion, the Academy Council will notify the parents, and all other parties involved, of the decision that was made and the reasoning for this, in sufficient detail.

The Academy Council may provide the information above by delivering it directly to parents, delivering it to their last known address, or posting it first class to that address. Notice is deemed to have been given on the same day if it is delivered or on the second working day after posting if it is sent by first class mail.

SECTION L

Requests for remote access meetings for Academy Council meetings or IRPs

Parents (if the pupil is under 18) or excluded pupils (if they are aged 18 years or older) can request a meeting to be held via the use of remote access but this should not be a default option. Academy Councils or arranging authorities for an IRP must hold the meeting via the use of remote access, if the request has been made correctly as set out in the Headteacher's written notification or the Academy Council's written notification to the parents that they can request an IRP. Holding meetings via remote access must only be done if Academy Councils or arranging authorities for an IRP are satisfied that the meeting is capable of being held fairly and transparently.

Remote access meeting duties

- If an Academy Council meets to consider and decide on the reinstatement of a suspended or permanently excluded pupil either via the use of remote access, this must happen within 15 school days of receiving notice of a suspension or permanent exclusion from the Headteacher.
- If an IRP meeting is to be held face to face or via the use of remote access, the Academy Trust must take reasonable steps to identify a date for the review that all parties, and any SEN expert appointed to give advice, are able to attend or join. The review must begin within 15 school days of the day on which the parent's application for a review was made (panels have the power to adjourn a hearing if required).
- Where a parent does not request a remote meeting or does not state a wish either way, Academy Councils and Academy Trusts must hold the meeting in person unless it is not reasonably practicable to do so in person for a reason related to extraordinary events or unforeseen circumstances such as an unforeseen school closure due to floods, fire or outbreak of infectious illness/disease.
- If there are technological or internet network issues, during a meeting held via the use of remote access which compromises the ability for participants to be seen or heard or prevents the meeting from being held fairly and transparently and it is not reasonably practicable to resolve, a face-to-face meeting must be arranged by the Academy Council or Academy Trust (for an IRP), despite the parent's request. This should be done without delay.
- Social workers and VSHs must be allowed to join a meeting via the use of remote access, regardless of the format chosen, as long as the Academy Council (for an

Academy Council meeting) or Academy Trust (for an IRP) are satisfied that they will be able to participate effectively, they can hear and be heard (and see and be seen if participating by video) throughout the meeting, and their remote participation will not prevent the meeting being fair and transparent.

- Academy council, Academy Trust and panel members must:
 - Comply with relevant equalities legislation
 - Enable access to support which the parent is entitled to, including the presence of a friend.
- Academy councils, Academy Trusts and panel members should ensure the following conditions are met for a meeting via remote access:
 - Confirm with all the participants that they have access to the technology which will allow them to hear and speak throughout the meeting, and to see and be seen, such as via a live video link
 - Ensure all the participants will be able to put across their point of view or fulfil their function
 - Ensure the remote meeting can be held fairly and transparently

Fairness and transparency during a meeting held via the use of remote access

- The Academy Council or Academy Trust must assess whether a meeting can be held fairly and transparently via remote access with reference to the facts of each case. Further information on key principles to consider when conducting and running meetings via the use of remote access can be found in **Annex A** of the policy.
- If an Academy Council or Academy Trust is not satisfied that a meeting can be held fairly and transparently via remote access, they should consult with the parent to discuss how a face-to-face meeting can be arranged that will be convenient for them.

Guidance for Social Workers and VSHs

Should Social Workers or VSHs be joining a meeting that, as a whole, is taking place in person, they must be allowed to join via the use of remote access should they wish to do so.

Use of remote access during an extraordinary event or unforeseen circumstance

- If there is a reason related to extraordinary events or unforeseen circumstances, such as an outbreak of infectious illness/disease, which means that it is not reasonably practicable for an Academy Council meeting or IRP to be held in person; then this meeting may be held using remote access even if the parent has not asked for the meeting to be remote.
- The meeting may be held via the use of remote access, provided the Academy Council or Academy Trust are satisfied that all participants will be able to fully make

representations and carry out their functions, each participant has access to the electronic means to allow them to hear and be heard and (where using a live video link) see and be seen, throughout the meeting; and the meeting is capable of being held fairly and transparently.

SECTION M

Removing Permanently Excluded Pupils from the School Register

The correct removal of pupils from the school admission register is critical to ensuring that permanent exclusions are carried out lawfully and that such pupil movements can be effectively monitored. By carrying this role out properly, Academy Councils can reduce opportunities for the illegal off-rolling of children and make this issue easier to identify and tackle.

The Academy Council must ensure that the Headteacher removes the pupils name from the school register if:

- 15 school days have passed since the parents were notified of the Academy Council decision not to reinstate the pupil and no application for an independent panel review has been received.
- The parents have stated in writing that they will not be applying for an independent panel review following a permanent exclusion.

The school cannot backdate the deletion of the pupil's name to the date the pupil's exclusion began.

If an application for an independent panel review has been made within 15 school days, the Headteacher will wait until the review has been determined, or abandoned, and until the Academy Council has completed any reconsideration that the panel recommended or directed it to carry out, before removing the pupil from the school register.

If a pupil's name is to be removed from the register, the Headteacher will make a return to the LA, which will include:

- All the particulars which were entered in the register.
- The address of any parent with whom the pupil normally resides.
- The grounds upon which the pupil's name is to be removed from the register.
- If the pupil's parent or parents have told the school that the pupil is going to live with one or more of them at a new address, the return must also include 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 pupil's parent or parents have told the school that the pupil is already registered at another school or is going to go to another school, the return must also

give the name of that school and the first date when the pupil attended or is due to attend there.

Any return to the LA will be made as soon as the grounds for removal are met and no later than the date in which the pupil's name was removed.

If a pupil's name has been removed from the register and a discrimination claim is made, the pupil may be reinstated following a decision made by the First-tier Tribunal (SEND) or County Court.

Whilst a pupil's name remains on the admissions register, the appropriate code will be used to mark the pupil's attendance.

The common transfer file should be transferred within 15 school days of the pupil ceasing to be registered at the school.

SECTION N

Independent Review Panel

If applied for by parents **within the legal time frame**, the Bishop Wheeler Catholic Academy Trust will arrange for an independent review panel hearing to review the decision of an Academy Council not to reinstate a permanently excluded pupil.

The Trust Head of Governance will liaise with the Multi Academy Trust's within the Leeds Diocese on behalf of the school and the Academy Council to arrange a panel and clerk for the independent review.

The legal time frame for an application is:

- Within 15 school days of notice being given to the parents by the Academy Council of its decision not to reinstate a permanently excluded pupil.
- 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 Trust will not delay or postpone arranging an independent review panel where parents also make a claim of discrimination in relation to the exclusion to the First-tier Tribunal (Special Educational Needs and Disability) or the County Court.

Parents may request an independent review panel even if they did not make representations to, or attend the meeting at which the Academy Council considered reinstating the pupil.

The Head of Governance will liaise with the arranging MAT to allocate a Clerk to the Independent Review Panel. The Clerk will take reasonable steps to identify a date for the review that all parties, and any SEN expert appointed to give advice in person, are able to attend. However, the review must begin within 15 school days of the day on which the parent's application for a review was made (panels have the power to adjourn a hearing if required).

The venue will be accessible to all parties. The Head of Governance will liaise with the Clerk to arrange a venue for hearing the review. Whatever the venue, the panel will hold the hearing in private unless the Trust Board directs otherwise.

Where the issues raised by two or more applications for review are the same, or connected, the panel may combine the reviews if, after consultation with all parties, there are no objections.

Appointing a Panel

The Head of Governance will liaise with the arranging MAT to constitute the panel with either three or five members (as decided by the Trust) representing each of the three categories below. The arranging MAT will constitute the panel from their existing panel members and will be independent from the school and the Trust. A three-member panel will be constituted with one member for each of the categories below. A five-member panel will be constituted with two members from each of the categories below:

- 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.
- Current or former school governors (including directors of academy trusts) who have served as a governor for at least 12 consecutive months in the last five years, provided they have not been teachers or Headteachers during that time.
- Headteachers or individuals who have been a Headteacher within the last five years.

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

- Are a Director of the Academy Trust or Governor of an Academy Council of the excluding Trust.
- Are the Headteacher of the excluding school or anyone who has held this position in the last five years.
- Are an employee of the LA or The Bishop Wheeler Catholic Academy Trust.
- Have, or at any time have had, any connection with the LA, The Bishop Wheeler Catholic Academy Trust, the school, the Academy Council, parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality (though an individual must not be taken to have such a connection simply because they are employed by the LA or the Trust as a Headteacher at another school)
- Have not had the required training within the last two years.

The arranging MAT will make arrangements to indemnify panel members against any legal costs and expenses reasonably incurred as a result of any decisions or actions connected to the review which are taken in good faith.

Every care should be taken to avoid bias or an appearance of bias. The arranging MAT should request that prospective panel members declare any conflict of interest at the earliest opportunity.

Appointing a Clerk

The arranging MAT will appoint a Clerk to provide advice to the panel and parties to the review on procedure, law and statutory guidance on exclusions. Where appointed, the Clerk will perform the following additional functions:

- Make reasonable efforts to inform the following people that they are entitled to: make written representations to the panel; attend the hearing and make oral representations to the panel; and be represented: a) the parents; or pupil if they are 18 years old b) the Headteacher; c) the Academy Council
- Make reasonable efforts to circulate to all parties copies of relevant papers at least five school days before the review. These papers must include: a) the Academy Council's decision; b) the parents' application for a review; and c) any policies or documents that the Academy Council was required to have regard to in making its decision.
- Give all parties details of those attending and their role, once the position is clear.
- Attend the review and ensure that minutes are produced in accordance with instructions from the panel. All records should be kept for at least five years and be compliant with GDPR requirements.

The Clerk will not have served as Clerk to the Academy Council in the meeting at which the decision was made not to reinstate the pupil. In addition to the training required by law, Clerks will have an up to date understanding of developments in case law which are relevant to exclusion.

Where a clerk is not appointed, the functions become the responsibility of the Academy Trust. In this situation, the Academy Trust will consider what additional steps it may need to take to ensure that the independent review panel is administered properly.

The Role of the Clerk

The Clerk's role is to provide advice to the panel and parties to the review on procedure, law and statutory guidance on suspensions or permanent exclusions. The Clerk will:

- Identify, in advance of the meeting, whether the excluded pupil wishes to attend the panel hearing, taking reasonable steps to enable the pupil to feedback their views, irrespective of their attendance.
- Identify, in advance of the meeting, whether any alleged victims of the incident(s) leading up to the exclusion wish to attend the panel hearing, taking reasonable steps to enable them to feedback their views, irrespective of their attendance.
- Ensure that the panel is able to hear from any witnesses to the incident(s) leading to the exclusion, taking into account the fact that some of these people may be pupils at the school (Pupils under 18-years-old will not be allowed to appear in person without parental consent). In the case of witnesses who are pupils of the school it will normally be more appropriate for the panel to rely on written statements.
- Inform the parents, Headteacher, Academy Council that they are entitled to: make oral and written representations to the panel; attend the hearing; and be represented.
- All written witness statements should be attributed, signed, and dated unless the school has good reason to wish to protect the anonymity of the witness, in which case the statement should at least be dated and labelled in a way that allows it to be distinguished from other statements.
- In addition to written witness statements, the clerk should request written evidence from the school to circulate it in advance of the meeting, such as policies and documents of the school which the Academy Council would reasonably have been expected to take account of in reaching its decision on reinstatement.
- The clerk should inform the parents of their right to bring a friend to the hearing.
- Ensure that all parties are: – Provided with copies of relevant papers at least five school days before the review, notifying the panel if any requested documents have not been provided in case the panel wishes to adjourn until a later date.
- Informed about who is attending the meeting, and what their roles are.
- Where the headteacher who permanently excluded the pupil has left the school, the panel may use its discretion in deciding whether to also invite this person to make representations.
- Attend the review and ensure that minutes are produced in accordance with instructions from the independent review panel. All records should be kept for at least five years and be compliant with GDPR requirements.

Appointing a SEN Expert

If requested by parents with their application for an independent review, the Academy Trust must appoint a SEN expert to attend the review. The school budget in which the exclusion took place would cover the associated costs of this appointment. The Trust will 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, or a pupil if they are 18 years or over, 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.

Individuals may not serve as a SEN expert if they have, or at any time have had, any connection with the LA, Academy Trust, school, parents or pupil, or the incident leading to the permanent exclusion, which might reasonably be taken to raise doubts about their ability to act impartially. However, an individual should not be assumed to have such a connection simply by virtue of the fact that he/she is an employee of the LA/Academy Trust.

The SEN expert should be someone who has expertise and experience of special educational needs considered by the Trust as appropriate to perform the functions specified in the legislation. The SEN expert should be a professional with first-hand experience of the assessment and support of SEN, as well as an understanding of the legal requirements on schools in relation to SEN and disability.

Examples of suitable individuals might include educational psychologists; specialist SEN teachers; special educational needs coordinators (SENCOs); and behaviour support teachers. Recently retired individuals are not precluded from fulfilling this role, though the Trust would need to assure themselves that the individual had a good understanding of current practice and the legal requirements on schools in relation to SEN and disability. Additionally, they should also be able to demonstrate that they have experience of working in schools. Whilst individuals are not automatically taken to be partial simply because they are an employee of, or contracted by, a LA or Trust, they should not have had any previous involvement in the assessment or support of SEN for the permanently excluded pupil, or siblings of the permanently excluded pupil.

The Trust will request that prospective SEN experts declare any conflict of interest at the earliest opportunity. The final decision on the appointment of a SEN expert is for the Academy Trust to make but it should take reasonable steps to ensure that parents have confidence in the impartiality and capability of the SEN expert. Where possible, this may include offering parents a choice of SEN expert. It is for the Trust to determine the amount of any payment in relation to the appointment of the SEN expert, such as financial loss, travel, and subsistence allowances.

The Role of the Independent Review Panel

The role of the independent review panel is to assess whether a pupil's exclusion has been lawful, reasonable, and procedurally fair and what further action might need to be taken.

Panel members and, if appointed, the SEN expert must declare any known conflict of interest to the Academy Trust before the start of the review.

The role of the panel is to review the Academy Council's decision not to reinstate a permanently excluded pupil. In reviewing the decision, the panel will:

- Consider the interests and circumstances of the permanently excluded pupil, including the circumstances in which the pupil was permanently excluded, and have regard to the interests of other pupils and people working at the school.
- Apply the civil standard of proof i.e. ‘on the balance of probabilities’ which means that it is more likely than not that a fact is true. This should be applied rather than the criminal standard of ‘beyond reasonable doubt’.
- Not consider new reasons for the permanent exclusion or for the decision not to reinstate the pupil. The panel will disregard any new reasons that are introduced.
- Only take account of the evidence that was available to the Academy Council at the time of it making its decision not to reinstate. This includes any evidence that the panel considers would, or should, have been available to the Academy Council and that it ought to have considered if it had been acting reasonably.
- Take account of evidence presented that the panel considers is unreasonable to expect the Academy Council to have been aware of at the time of its decision
- Seek and have regard to the SEN expert’s view of how SEN may be relevant to the pupil’s permanent exclusion.
- Seek and have regard to the social worker’s view of how the pupil’s experiences, needs, safeguarding risks and/or welfare may be relevant to the pupil’s permanent exclusion.
- Seek and have regard to the VSH’s view of how any of the child’s background, educational and safeguarding needs were considered by the Headteacher in the lead up to the permanent exclusion or relevant to the pupil’s permanent exclusion.
- Consider the Academy Council’s decision in light of the principles applicable in an application for judicial review, the panel will apply the following tests:
 1. Illegality – did the Academy Council act outside the scope of its legal powers in deciding that the pupil should not be reinstated?
 2. Irrationality – did the Academy Council rely on irrelevant points, fail to take account of all relevant points, or make a decision so unreasonable that no Academy Council acting reasonably in such circumstances could have made it?
 3. Procedural impropriety – was the Academy Council’s consideration so procedurally unfair or flawed that justice was clearly not done?

Following its review, the panel can decide to:

- Uphold the Academy Council’s decision not to reinstate.
- Recommend that the Academy Council reconsiders reinstatement; or
- Quash the Academy Council’s decision and direct that the Academy Council reconsiders reinstatement.

The panel’s decision does not have to be unanimous and can be decided by a majority vote. In the case of a tied vote, the Chair has the casting vote.

The independent review panel's decision is binding on the: pupil; parents; Academy Council; Academy Trust; the Headteacher; and LA. The panel may only quash an Academy Council's decision not to reinstate if it considers that the decision was flawed when considered in the light of the principles applicable on an application for judicial review.

Where the panel has quashed the Academy Council's decision, the panel should order that the Trust must make a payment directly to the LA in whose area the academy is located, unless within ten school days of receiving notice of the panel's decision, the Academy Council decides to reinstate the pupil.

If the panel upholds the Academy Council's decision not to reinstate, the Clerk should immediately report this to the LA (who should inform, where a pupil has one, the social worker and VSH), and notify the parents and the Academy Council. If the pupil lives outside the LA area in which the school is located, the clerk should make sure that the 'home authority' is also informed in writing of the outcome of the review without delay. This includes any situation where parents withdraw or abandon their application for a review.

Academy Council Duty to Reconsider Re-instatement

When an independent review panel directs or recommends a pupil's reinstatement, the Academy Council will consider the pupil's reinstatement afresh.

Where the panel directs or recommends that the Academy Council reconsider whether a pupil should be reinstated, the Academy council will reconvene **within ten school days** of being given notice of the panel's decision. Notice is deemed to have been given on the day of delivery if it is delivered directly or on the second working day after posting if it is sent by first class mail.

The Academy Council will conscientiously reconsider whether the pupil should be reinstated, whether the panel has directed or merely recommended it to do so.

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

- The parents.
- The Headteacher.
- The LA and, where relevant, the 'home authority'.

The reconsideration provides an opportunity for the Academy Council 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 Academy Council is not prevented from taking into account other matters that it considers relevant. It will take care to ensure that any additional information does not make the decision unlawful.

The Academy Council will ensure that clear minutes are taken of the meeting as a record of the evidence that was considered. These minutes should be made available to all parties on request.

The Academy Council will ask any parties in attendance to withdraw before making a decision. Where present, a Clerk may stay to help the Academy Council by reference to their notes of the meeting and with the wording of the decision letter.

The Academy Council will note the outcome of its consideration on the pupil's educational record, and copies of relevant papers should be kept with the educational record.

The Academy Council will base its reconsideration on the presumption that a pupil will return to the school if reinstated, regardless of any stated intentions by the parents or pupil. Any decision to offer reinstatement which is subsequently turned down by the parents should be recorded on the pupil's educational record. The Academy Council's decision should demonstrate how they have addressed the concerns raised by the independent review panel.

SECTION O

Police Involvement and Parallel Criminal Proceedings

The Headteacher will not postpone taking a decision on a suspension and permanent 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 alongside considering general safeguarding principles.

Where the Academy Council is required to consider a reinstatement in these circumstances, it will not postpone its meeting and must decide whether or not to reinstate the pupil on the evidence available.

The fact that parallel criminal proceedings are in progress will also not directly determine whether an independent review panel should be adjourned. Relevant factors for the panel to consider will include:

- Whether any charge has been brought against the pupil and, if so, what the charge is.
- Whether relevant witnesses and documents are available.
- The likely length of delay if the hearing were adjourned and the effect it may have on the suspended or permanently excluded pupil, the parents, any victim, or the school.
- Whether an adjournment or declining to adjourn might result in injustice.

Where a panel decides to adjourn, the Clerk (or Trust Head of Governance where a clerk is not appointed) will monitor the progress of any police investigation and/or criminal

proceedings and reconvene the panel at the earliest opportunity. If necessary, the panel may adjourn more than once.

ANNEX A

Key principles when conducting meetings via the use of remote access

Things to consider

Headteachers and Academy Councils may advise the parent or pupil (if they are over 18 years old), within their written notification, to consider the following, before requesting a remote access meeting:

- The technology that will be used for the Academy Council or IRP
- Do the parent or excluded pupil (if they are over 18 years old) have an appropriate space free from other distractions to enable them to participate fully with a remote access meeting
- Where the parent or excluded pupil (if they are over 18 years old) have limited access to the Internet, intermittent service or slower speed internet, they should not request a remote meeting for an Academy Council or IRP
- Where the parent or excluded pupil (if they are over 18 years old) initially ask for a meeting to be held via the use of remote access then decide to withdraw the request, they should inform the Academy Council or Academy Trust without delay. The Academy Council or Academy Trust should without delay, arrange the meeting to be held face to face.

It is important to note that headteachers and Academy Councils should not place undue pressure on the parent or excluded pupil (if they are over 18 years old) to request a meeting to be held via the use of remote access, even if doing so means that they will arrange a meeting any sooner.

Running the meeting via the use of remote access

To ensure the meeting is capable of being held fairly and transparently, the Academy Council or Academy Trust for IRPs should make every effort to check all participants understand the proceedings and be made aware of how to raise any issues that may prevent their effective engagement. If these conditions are not met, the meeting should not be held via remote access and must be arranged face-to-face without delay.

Things to consider

To help meetings run smoothly and ensure they are accessible to any participants, Academy Councils and IRPs should:

- Provide clear instructions about how to join the meeting virtually, and distribute the joining instructions in a timely manner ahead of the meeting
- Indicate a named person who parents, excluded pupils (if they are over 18 years old) or any participant should contact, if they have any questions before the meeting takes place
- Consider holding a ‘test meeting’ with any participant to check the available technology is suitable, and that all participants understand how to access the meeting
- Ensure that the chair of governors or IRP is prepared to explain the agenda at the start and provide clear guidance on how the meeting will be run, for example:
 - How participants should indicate they wish to speak
 - How any “chat” functions should be used
 - Whether there will be any breaks in proceedings
 - How parents and excluded pupils can access advocacy services during the meeting

Things to remember:

The use of remote access does not alter other procedural requirements that apply to Academy Councils, the Academy Trust or IRPs. For example, if a parent requests the appointment of a special educational needs expert to advise a review panel, the Academy Trust must appoint one and cover the cost as normal. Parents or excluded pupils (if they are 18 years old or older) may be joined by a friend as normal. The Academy Councils and IRPs must consider written representations if they are made. The law does not allow for solely paper based ‘meetings’, conducted in writing. For the purposes of which information is recorded within minutes, the normal rules apply as per this guidance, and the Academy Council and IRP can instruct the clerk to record any information or instructions that they deem sensible to include so that the minutes provide a clear and sufficient record of all relevant parts of the meeting, for example, how “chat” functions or messages will be monitored.

The 13 schools in our Trust:

St. Mary's Menston, a Catholic Voluntary Academy

St. Joseph's Catholic Primary School Otley, a Voluntary Academy

Ss Peter and Paul Catholic Primary School, a Voluntary Academy

Sacred Heart Catholic Primary School Ilkley, a Voluntary Academy

St Mary's Horsforth Catholic Voluntary Academy

St. Joseph's Catholic Primary School Pudsey, a Voluntary Academy

St Joseph's Catholic Primary School Harrogate, a Voluntary Academy

St Mary's Catholic Primary School Knaresborough, a Voluntary Academy

St. Stephen's Catholic Primary School and Nursery, a Voluntary Academy

Holy Name Catholic Voluntary Academy

St Roberts Catholic Primary School, a Voluntary Academy

St John Fisher Catholic High School Harrogate, a Voluntary Academy

St Joseph's Catholic Primary School Tadcaster, a Voluntary Academy



The Bishop Wheeler Catholic Academy Trust

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