



OASIS COMMUNITY LEARNING EXCLUSIONS POLICY

October 2020

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1. What is this policy about?

Our Oasis Charter states that we have a passion to include everyone and that we desire to treat everyone equally, respecting differences. We believe that good relationships are at the heart of what we do and have a deep sense of hope that things can change and be transformed. We believe that all our children and young people are precious: we prioritise social inclusion and integration in all that we do. In our relationships, we model high expectations for every child, young person and member of staff. For these reasons, the Trust is committed to using exclusion from an Academy as a last resort, unless the incident is a significant one off.

Through this policy Oasis Community Learning aims to ensure that:

- Students and staff are happy and safe
- The exclusions process is applied fairly and consistently
- The exclusions process is understood by Regional Directors, staff, parents and students
- Students in Academies are safe and happy
- Students do not become NEET (not in education, employment or training)

The requirements that apply to this policy

The DfE exclusion guidance can be downloaded here: [School Exclusion](#)

Statutory guidance means that Academies should follow this guidance, unless there is good reason not to in a particular case. It is based on the following legislation, which outline schools' powers to exclude students:

- Section 51A of the [Education Act 2002](#),
- [The School Discipline \(Student exclusions and Reviews\) \(England\) Regulations 2012](#)

In addition, the policy is based on:

- Part 7, chapter 2 of the [Education and Inspections Act 2006](#), which looks at parental responsibility for excluded students
- Section 579 of the [Education Act 1996](#), which defines 'school day'
- The [Education \(Provision of Full-Time Education for Excluded Students\) \(England\) Regulations 2007](#), as amended by [The Education \(Provision of Full-Time Education for Excluded Students\) \(England\) \(Amendment\) Regulations 2014](#)
- SEND Code of Practice January 2015

2. Who is this policy for?

This policy is for academy leaders and parents.

Principal in this document and in DfE guidance applies equally to an acting/Interim Principal.

Parent in this document include any person who has parental responsibility (which includes the Local Authority where it has a care order in respect of the child) and any person (for example foster carer) with whom the student lives. It is expected that all those with parental responsibility should be engaged with the exclusions process.

3. Policy statement

Only the Principal can exclude a student from the Academy. If the Academy does not have a head / principal then an acting principal can exclude a student.

A permanent exclusion will be taken as a last resort, unless the incident is a significant one off.

Any decision to exclude must be lawful (with respect to the legislation relating directly to exclusions and the Academy's wider legal duties), rational, reasonable, fair and proportionate. In every instance where a student is sent home for disciplinary reasons, Principals must formally record and specify the length of the exclusion.

4. Unlawful Exclusions

- 'Informal' or 'unofficial' exclusions, such as sending students home 'to cool off' are unlawful, regardless of whether they occur with the agreement of parents or carers.
- If a student is sent home in response to a breach of discipline, even for a short period of time, this must be formally recorded as an exclusion.
- The law does not allow for extending a fixed-period exclusion or 'converting' a fixed-period exclusion into a permanent exclusion except in exceptional cases (usually where further evidence has come to light. (DfE September 2017 guidance para 3)

It is unlawful to exclude or to increase the severity of an exclusion for a non-disciplinary reason for example:

- because the student has additional needs or disability that the Academy feels unable to meet
- time needed to arrange a multi-agency, review or planning meeting
- failure of a student/parent to meet specific conditions before the student is reinstated

Part time timetables

"All students of compulsory school age are entitled to full-time education. In very exceptional circumstances there may be a need for a temporary part-time timetable to meet a student's individual needs. For example where a medical condition prevents a student from attending full-time education and a part-time timetable is considered as part of a re-integration package. A part-time timetable must not be treated as a medium or long term solution. Any pastoral support programme or other agreement must have a time limit by which point the student is expected to attend full-time."

"In agreeing to a part-time timetable a school has agreed to a student being absent from school for part of the week or day and therefore must record it as authorised absence." *DfE School Attendance 2018*

The use of a part-time timetable can also constitute unlawful exclusions, where the student is just not allowed in school for lessons/sessions because of behaviour or special needs.

A reduced timetable is an agreement between parent/carer, and Academy and student. As a guide, it is suggested that this should be limited to a period of no more than six weeks.

Academies have a duty of care for all students on their roll. The Academy must ensure that when a student is not expected to attend, there is a written agreement with parents or alternative education providers about who is responsible for keeping the student safe for the time they would normally be in the Academy.

Midway through the reduced timetable period. The Academy will have a review meeting. This will be an opportunity to discuss support and if all the objectives of the reduced timetable are being met.

At the end of the agreed period of the reduced timetable the Academy will have a re-integration review meeting.

This will be an opportunity to discuss with parents, carers and the student whether the objectives of the reduced timetable have been met and to agree any on-going support necessary for the student. A reduced timetable is rarely effective in managing pupils at risk of exclusion. Limiting their access to education is unlikely to help them develop in their areas of need.

It is best practice in OCL to discuss any part time education with the relevant Regional Director.

5. Behaviour outside the Academy

The behaviour of students outside the Academy can be considered as grounds for exclusion. The Academy's behaviour policy will set out what the Academy will do in response to all non-criminal poor behaviour and bullying which occurs anywhere off the Academy premises. This behaviour could include bringing the Academy into disrepute.

Parents should be directed to the Academy's Behaviour Policy and the OCL Behaviour for Learning Policy available on the Academy website.

6. Preventative Measures

Disruptive behaviour can be an indication of unmet needs. Where an Academy has concerns about a student's behaviour it should try to identify whether there are any causal factors and intervene early in order to reduce the risk of an exclusion. In this situation, Academies should give consideration to a multi-agency assessment that goes beyond the student's educational needs.

Early intervention to address underlying causes of disruptive behaviour should include an assessment of whether appropriate provision is in place to support any SEN or disability that a student may have.

Principals should consider what extra support might be needed to identify and address the needs of students from key vulnerable groups in order to reduce their risk of exclusion for example: students eligible for Free School Meals; Looked After Children and students from certain ethnic groups including Gypsy / Roma, Travellers of Irish Heritage and Black Caribbean communities.

Referral to specific support service may be dependent on individual circumstances. However, support should be sought. These specific support services may include:

- Educational Psychologist
- An Advisory Teaching Service
- Speech and Language Therapy Service
- Families support services
- Youth Support Services
- Children and Young People's Service
- Alternative Provision School or another Alternative Provider
- Voluntary Sector Support Services.

7. SEND reviews

Principals must take account of their statutory duties to the SEND Code of Practice when administering the exclusion process. They should, as far as possible, avoid excluding permanently any student with an Education Health and Care Plan (EHCP) (or a Statement of SEND).

Where an Academy identifies a student with an EHCP/Statement of SEND who is at serious risk of disaffection or exclusion, an interim or early review should be called. It will then be possible to consider the student's changing needs and provision as an alternative to the student being excluded.

Pupils with SEND

Leaders must ensure that academies have made appropriate adjustments for children with SEN or those with other disabilities, before they resort to exclusion. Sometimes children can demonstrate behaviour, which is due to their additional need or disability rather than them being naughty or disruptive.

8. Managed Moves

A Managed Move is defined as a formal agreement between two schools, a student and their parents. It allows a student at risk of permanent exclusion to transfer to another school. The move requires the agreement of the student's parent, the Principal of the student's school, the Principal or head teacher of the proposed school, and the LA (if the school being transferred to is a LA school). A Managed Move is never an early or first response when a student is failing at school because of behaviour. Rather, it should be considered as part of a measured response to supporting their emotional, social and behavioural needs. It is likely to be a strategy considered in the later stages of a support plan where there is little or no evidence of success. A Managed Move can often be a fresh start for a student and must be undertaken alongside a high level of support for the student.

9. Behaviour for Learning Policy

Academies must apply their behaviour for learning policies in a consistent, rigorous and non-discriminatory way with due regard to the Equality Act 2010. This Act has provision that allows schools to take positive action to deal with particular disadvantages affecting one group, where this can be shown to be a proportionate way of dealing with such issues.

Exclusions should **not** be used for:

- failure to do homework
- poor academic performance
- lateness or truancy
- one-off breaches of Academy uniform or rules on appearance
- behaviour of students' parents

10. Mitigating Circumstances

Principals should take account of any contributing factors that are identified after an incident of poor behaviour has occurred (e.g. where it comes to light that a student has suffered bereavement, has mental health issues or has been subject to bullying).

11. Safeguarding students

Principals must take account of their legal duty of care when sending a student home following the exclusion. The head teacher should also give particular consideration to the fair treatment of students from groups who are vulnerable to exclusion. Principals should ensure that:

- They are meeting their legal duty of care towards students. Parents/carers must be formally notified of the exclusion and the student must not be placed at risk by, for example, being sent home without adequate supervision. Best practice is that parents/carers must be spoken to directly before a student is sent home
- Child protection issues are taken into account e.g. bearing in mind the student's age and vulnerability.

Principals should consider whether any student may be at risk of Child Sexual Exploitation (CSE) and the implications of this on the decision to exclude. Exclusion from the Academy or unexplained absences from the Academy is a risk indicator on the CSE screening tool.

Working with the Principal, the Designated Safeguarding Lead (DSL) is responsible for maintaining a confidential record of all students for whom there are Child Protection (CP) issues or who have a Child Protection Plan (CPP) and for managing the education contribution to the CPP.

A student, for whom there are CP issues, is more at risk of harm if their family is placed under unexpected stress. Any exclusion can create stress and each Academy should have systems that allow current information about a student's situation to be considered when the Principal is thinking about exclusion.

The DSL can advise the Principal and contact children's social care before the Principal takes action to exclude. In discussion with the Principal or DSL, the social worker may decide to call a core group meeting for students with CP issues to plan how to ensure the student is kept safe from significant harm. The Principal will normally consult a student's social worker before making the decision to exclude. In some cases, it **may** be appropriate for the Principal to delay the dates for exclusion e.g. 2-3 days to allow the social worker to plan how to ensure the student is kept safe from significant harm during the exclusion. The Principal may issue an internal exclusion for the intervening days in the Academy.

If a parent does not comply with the exclusion, by sending the excluded student to the Academy, or by refusing to collect, or arrange collection of the student, the Academy must consider the student's safety in deciding what action to take. Any exclusion should not be enforced if doing so may put the safety of the student at risk. The social worker may help to resolve the issue with the parents of any student with CP issues.

12. Alternatives to exclusion – Internal exclusion

Academies can still use internal exclusions. These should be time limited and not used excessively for the same student. Such exclusions are served on the Academy site and are not treated as an exclusion from the Academy. Internal exclusion may be more appropriate in cases where a student is a Child in Care (CiC) who is subject to a Child Protection Plan, or for whom the Principal believes formal exclusion might pose a safeguarding risk. Every effort should be made to ensure that, whilst in internal exclusion, a student does not fall behind with their schoolwork. This will include the setting and marking of relevant work.

13. CiC / LAC

Children in Care / Looked After Children are a group of students who are vulnerable to exclusion. The LA Virtual School Lead should be contacted on the day of exclusion. LA protocol should be followed when CiC/LAC students are excluded. Exclusion of a child in care is not an equal punishment as that of a child living with their family; the consequence can often be loss of their home, not just their education. Everything possible should be done by all partners to ensure that LAC are never permanently excluded and that fixed term exclusions are avoided.

14. Gathering evidence

When establishing the facts in relation to an exclusion the Principal 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.

Evidence could consist of witness statements, photographs, screen shots from social network sites, physical evidence or behaviour incident records. In the case of exclusions for persistent disruptive behaviour, Principals should also provide evidence that preventative measures have been used. Principals should give students the opportunity to present their views before taking the decision to exclude.

15. Witness statements

All witness statements should be attributed, signed and dated, unless the Academy 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.

The following advice is taken from Witness Statements Preparation Guide, European Human Rights Advocacy Centre, 2008. *If an adult is writing down the statement of a young person, or asking a student to write their own statement, they must avoid using leading questions. Useful questions might include:*

- *When did the incident take place?*
- *Where was the witness at the time and what was he or she doing?*
- *Who was the witness with and what did the witness see?*
- *What did each person say or do?*

Statements should be factual and in the words of the witness: 'I did this...', and 'I saw...' Statements could also include photos, maps, sketches or diagrams. When the decision is made to 'anonymise' witness statements by students, the Academy should contact the student's parents of the witness to explain that the 'anonymised' statement will be presented to the Exclusions panel. The panel can read the original statements and decide whether to lift the 'veil of anonymity' to ensure fairness. In this case, all parties at the meeting will see the names of the witnesses. Parents of the witness will need to agree to this in advance of the meeting otherwise, the evidence may be discounted.

16. Police involvement and parallel criminal proceedings

Principals need not postpone taking a decision about an exclusion solely because a police investigation is underway and/or any criminal proceedings may be brought. In such circumstances, Principals will need to take a decision on the evidence available to them at the time.

It may be advisable, where the evidence is not clear-cut or is still coming to light, to first exclude the student for a fixed period.

The guidance now makes it clear that the law does not allow for extending a fixed period exclusion or converting it into a permanent one other than in exceptional circumstances such as further evidence coming to light. A further fixed-period exclusion 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 period. (*DfE guidance page 8*)

17. Fixed term exclusion

A student may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year). A fixed period exclusion does not have to be for a continuous period. The law does not allow for extending a fixed-period exclusion or 'converting' a fixed-period exclusion into a permanent exclusion. In exceptional cases, usually where further evidence has come to light, a further fixed-period exclusion 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 period.

Fixed period exclusions should be for the shortest time necessary. Ofsted inspection evidence suggests 1-3 days are often long enough. A longer period of exclusion may have adverse educational consequences. A lunch-time exclusion should be recorded as a half day. Academies should take reasonable steps to set and mark work for students during the first five days of an exclusion. Work that is provided should be accessible and achievable by students outside of the Academy. Regional Directors must be kept informed about fixed term exclusions.

18. Permanent exclusion

A decision to exclude a student permanently should only be taken:

- by the Principal (or Acting/Interim Principal)
- in response to serious or persistent breaches of the Academy's behaviour policy; **and**
- where allowing the student to remain in the Academy would seriously harm the education or welfare of the students or others in the Academy

Regional Directors must not be involved in the decision to permanently exclude a student as they will chair the Exclusion Panel. Principals can source advice regarding Exclusions from the National Directors. Principals are strongly encouraged to discuss a permanent exclusion with a senior colleague in OCL before making the final decision.

Where practical, Principals should give a student a final opportunity to present their case before taking the decision to exclude.

While current government guidance provides no examples of what a serious breach of the Academy's behaviour policy might be, Principals might reasonably consider permanent exclusion in the following, as cited in previous government guidance (2008):

- serious actual or threatened violence against another student or member of staff
- sexual abuse or assault
- supplying an illegal drug
- carrying an offensive weapon

19. Procedures following an exclusion

Informing parents

The Principal must, without delay notify parents of the period of an exclusion and the reasons for it, their legal responsibilities during the first five days of their student's exclusion and follow up in writing with:

- the reasons for the exclusion;
- the period of a fixed period exclusion or, the fact that it is permanent;
- parents' right to make representations about the exclusion to the Exclusion Panel and how the student may be involved in this;
- how any representations should be made to the Exclusion Panel, depending on the length of the exclusion
- where the Exclusion Panel is legally required to consider the exclusion, that parents have a right to attend a meeting, be represented at this meeting (at their own expense) and to bring a friend

The Academy must inform parents of the days on which they must ensure that the student is not present in a public place at any time during school hours, for the first 5 days of any exclusion and that a Penalty Notice can be issued if they fail to ensure this.

From the sixth day of a fixed period exclusion, Academies are required to arrange alternative full-time education for the excluded student.

'Where a student receives consecutive fixed-period exclusions, these are regarded as a cumulative period of exclusion for the purposes of this duty. This means that if a student has more than five consecutive school days of exclusion, then education must be arranged for the sixth school day of exclusion, regardless of whether this is as a result of one fixed-period or more than one fixed-period exclusion.' (DfE guidance Section 5 Paragraph 45)

Local Authorities are required to arrange full-time education from the sixth day of a permanent exclusion.

If alternative provision is being arranged by the Academy, then the following information must be included in the letter to parents: the address, contact name to whom the student should report; start and finish date and times of any such full-time education, including the times for morning and afternoon sessions where relevant (where it can reasonably be found out within the timescale).

Parents must be informed where a further fixed period exclusion or a permanent exclusion has been issued. The Principal may also withdraw an exclusion that has not been reviewed by the Exclusion Panel. In such cases the Principal must write again to the parents explaining the reasons for the change and providing any additional information.

Informing the Regional Director and the Local Authority

The Principal must, immediately, notify the Regional Director, and the Local Authority of any permanent exclusion or any fixed period exclusion which would result in the student:

- being excluded for more than five days (or more than ten lunchtimes) in a term
- missing a public examination or national curriculum test

Academies are no longer required to arrange a re-admittance meeting for a student and parents following an exclusion.

However, OCL academies must have a strategy for reintegrating students that return to an Academy following a fixed period exclusion, and for managing their future behaviour. Each Academy should have a clear strategy for reintegration. This will include a meeting with parents/carers and the student to plan support and be clear about risk of permanent exclusion.

20. Exclusions Panel

The Trust's Scheme of Delegation allows an Exclusion Panel to decide whether or not to reinstate the student. The Exclusion Panel consists of three people:

- A Regional Director (often this is the RD from the neighbouring region)
- A senior leader from an Oasis Academy (Or from another school outside Oasis)
- A volunteer (a Hub Council member or an appropriate community volunteer)

A Director or Head of Service will be asked to join the Exclusions Panel if any of the above are not available. National Directors will not be part of an Exclusion Panel but may be used as a sounding board for Principals.

OCL will provide regular training for all members of Exclusion Panels and Clerks but accepts that there will be exceptional circumstances when untrained members will be asked to join or clerk for the panel.

A senior leader will act as a student advocate for SEND and the protected characteristics.

National Directors may be used as "sounding boards" for Principals when they are making a decision about permanent exclusion.

21. Considering reinstatement of a student

The Exclusions Panel has a duty to consider the reinstatement of an excluded student within 15 school days of receiving the notice of the exclusion if:

- The exclusion is permanent
- It is a fixed-term exclusion which would bring the student's total number of school days of exclusion to more than 15 in a term
- It would result in a student missing a public examination

Where an exclusion would result in a student missing a public examination, the Exclusions Panel will consider the reinstatement of the student before the date of the examination. If this is not practicable, the Exclusions Panel will consider the exclusion and decide whether or not to reinstate the student.

The Exclusions Panel can decide to:

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

In reaching a decision, the Exclusions Panel will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the Principal followed their legal duties and any evidence that was presented to the Panel in relation to the decision to exclude.

They will decide whether or not a fact is true 'on the balance of probabilities', which differs from the criminal standard of 'beyond reasonable doubt', as well as any evidence that was presented in relation to the decision to exclude.

The Exclusions Panel must consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and people working at the Academy.

Minutes will be taken of the meeting, and a record of evidence considered kept. The outcome will also be recorded on the student's educational record.

The Chair of the Exclusions Panel will notify, in writing, the principal, parents and the LA (including the LA in which the student resides, if different to the LA in which the Academy is located) of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the Exclusions Panel's decision will also include the following:

- The fact that it is permanent
- Notice of parents' right to ask for the decision to be reviewed by an independent review panel, and:
 1. The date by which an application for an independent review must be made
 2. The name and address to whom an application for a review (and any written evidence) should be submitted
 3. That any application should set out the grounds on which it is being made and that, where appropriate, reference to how the student's SEN are considered to be relevant to the exclusion
 4. That, regardless of whether the excluded student has recognised SEN, parents have a right to require OCL to appoint an SEN expert to attend the review
 5. Details of the role of the SEN expert and that there would be no cost to parents for this appointment
 6. That parents must make clear if they wish for an SEN expert to be appointed in any application for a review
 7. That parents may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents may also bring a friend to the review
- That if parents believe that the exclusion has occurred as a result of unlawful discrimination, they may make a claim under the Equality Act 2010 to the First-Tier Tribunal (Special Educational Needs and Disability), in the case of disability discrimination, or the county court, in the case of other forms of discrimination. A claim of discrimination made under these routes should be lodged within 6 months of the date on which the discrimination is alleged to have taken place

22. Update during the Covid-19 period

Exclusions occurring between 25 September 2020 and 24 March 2021

For exclusions occurring between 25 September 2020 and 24 March 2021 (inclusive of those dates), meetings of Exclusion Panels or Independent Review Panels should be held via remote access if:

- it is not reasonably practicable to meet in person due to coronavirus (COVID-19)
- the other conditions for a remote access meeting are met

Conditions for remote access:

When Exclusion Panels or independent review panels (IRPs) have to meet to consider an exclusion, they can do so via telephone or video-conference software ('remote access') as long as:

- it is not reasonably practicable for the meeting to take place in person, within the usual timescales, due to coronavirus (COVID-19)
- the Chair of the Exclusion Panel (or arranging authority, if the meeting is an IRP) is satisfied that:
 - ✓ all the participants agree to the use of remote access
 - ✓ all the participants have access to the technology which will allow them to hear and speak throughout the meeting, and to see and be seen, if a live video link is used
 - ✓ all the participants will be able to put across their point of view or fulfil their function
 - ✓ the meeting can be held fairly and transparently via remote access

It is the responsibility of the Chair of the Exclusions Panel (or the arranging authority in the case of an IRP meeting) to make sure these conditions are met before a meeting takes place.

Those who have no intention of taking part in the meeting should not be treated as 'participants' for the purposes of the conditions stated above.

When determining if it's practicable to meet in person the Chair of the Exclusion Panel or arranging authority should assess:

- the facts of the case
- the circumstances in which a meeting in person could be expected to take place
- the needs of the intended participants (as far as this is possible)
- the latest public health guidance (including the guidance for full opening of schools)

Arranging a remote access meeting

The Chair of the Exclusion Panel or arranging authority should explain the technology they propose to use to participants and should make sure that the participants (particularly pupils and their families) know that they do not have to agree to a meeting to be held via remote access if they do not want to.

They should make families aware that if they do not consent to a remote access meeting then the meeting is likely to be delayed.

Where a parent or pupil has given their agreement for a meeting to be held via remote access, the other participants should accommodate that preference except in exceptional circumstances.

Chairs of the Exclusion Panel, arranging authorities and panel members must comply with relevant equalities legislation and recognise that some participants may find it difficult to participate in a remote access meeting (for example, if someone has a disability or if English is not their first language).

The Chair of the Exclusion Panel or arranging authority should take reasonable steps to facilitate a parent, child or young person's access to the technology required.

If a panel member or other participant requires support to access or use remote access technology, the Chair of the Exclusion Panel or arranging authority should facilitate this to ensure the meeting can be held promptly

Fairness and transparency

The assessment of whether a meeting can be held fairly and transparently via remote access must be made with reference to the facts of each case and cannot be decided by rigidly following a general policy.

If a Chair of the Exclusion Panel or arranging authority is not satisfied that a meeting can be held fairly and transparently via remote access, they should consider what reasonable adjustments could be made to surmount this, consulting with parents and pupils to take account of their wishes.

It will only be in rare cases where the Chair of the Exclusion Panel or arranging authority conclude that a remote meeting would not be fair and transparent if the participants have understood the implications of a remote access meeting and have given their consent. In such cases, the Chair of the Exclusion Panel or arranging authority should explain to the parent and the pupil why this decision has been taken.

Running the meeting

If a meeting is held via remote access, every effort should be made by the chair to check the participants understand the proceedings and can engage with them, to ensure the meeting is conducted fairly.

If, once the meeting starts, the meeting cannot proceed fairly (for example, because a participant cannot access the meeting), the Chair of the Exclusion Panel or IRP should adjourn the meeting.

The use of remote access does not alter other procedural requirements that may apply to Chair of the Exclusion Panels, arranging authorities or IRPs. For example, if a parent requests the appointment of a special educational needs (SEN) expert to advise a review panel, the local authority/academy trust must appoint one and cover the cost as normal. Parents may bring a friend or representative, as normal.

Though Chair of the Exclusion Panels and IRPs must consider written representations if they are made, the law does not allow for solely paper-based 'meetings', conducted in writing.

As long as the conditions for a remote access meeting are met, it is possible for some participants to be present in person and for others to join the meeting via remote access. All the participants must have access to technology which will allow them to hear and be heard by others throughout (and to see and be seen throughout, if a live video link is used).

To help meetings run smoothly and ensure they are accessible for participants:

- provide clear instructions to participants about how to join the meeting virtually, and distribute the relevant papers in a timely manner ahead of the meeting
- indicate a named person who participants can contact, with any questions they may have beforehand
- ensure the chair is prepared to explain the agenda at the start of the meeting, and to 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 participants can access advocacy services during the meeting
- consider holding a pre-meeting with attendees to check that the available technology is suitable, and all participants understand how to access the meeting

23. Preparing evidence in advance of Exclusion Panel meetings

The Exclusions Panel require evidence from the Academy in advance of a disciplinary meeting including records of the behaviour and the support provided by the Academy.

24. Communicating the outcome of the Exclusion Panel meeting

Within 24 hours the Chair of the Exclusion Panel must let **Philip Beaumont and the relevant Regional Director** know if the panel's decision is to uphold the permanent exclusion. The email to Philip Beaumont should include: The name of the student, boy/girl, Academy, year group, disadvantaged or other, LAC, CP, SEND and ethnicity as well as the full reason for the permanent exclusion being upheld. The OCL exclusions tracker form should be used. This can be found at: [PEX Tracker 17 18](#)

25. The Independent Review (IRP)

If parents apply for an independent review, the Academy will arrange for an independent panel to review the decision of the Exclusion Panel not to reinstate a permanently excluded student.

Applications for an independent review must be made within 15 school days of notice being given to the parents by the Exclusions Panel of its decision to not reinstate a student.

The deadline for applications for an independent review in relation to exclusions occurring between 25 September 2020 and 24 March 2021 will be **25 school days** from the date on which notice in writing of the Exclusion Panel's decision is given to parents, or directly to the pupil if they are 18 or above.

A panel of three or five members will be constituted with representatives from each of the categories below. Where a five-member panel is constituted, two members will come from the school governor category and two members will come from the Principal/Headteacher category.

- A lay member to chair the panel who has not worked in any Academy in a paid capacity, disregarding any experience as a volunteer

- Current or former school governors (including members of PRU management committees and 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 head teachers during that time
- Principals/Headteachers or individuals who have been a Principal within the last 5 years

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

- Are a Director of the MAT of the excluding Academy
- Are the Principal of the excluding Academy, or have held this position in the last 5 years
- Are an employee of the excluding Academy (unless they are employed as a Principal at another Academy)
- Have, or at any time have had, any connection with the Academy Trust, Academy, parents or student, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality
- Have not had the required training within the last 2 years

An independent, trained clerk will be appointed to the panel.

The independent review panel will decide one of the following:

- Uphold the Exclusions Panel's decision
- Recommend that the Exclusions Panel reconsider reinstatement
- Quash the Exclusions Panel's decision and direct that they reconsider reinstatement (only when the decision is judged to be flawed on the basis that it is irrational, illegal or that there were significant procedural improprieties in the Exclusions Panel meeting)

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

The IRP may request that a representative of the Exclusion Panel attend the independent review. The need for a representative of the Exclusions Panel is because the Principal cannot present evidence on behalf of the Panel. The decision making function of the Exclusions Panel must have taken place without the Principal being present as otherwise this would be a breach of the exclusions procedure. Therefore, it is necessary for an Exclusions Panel representative to be present to outline how and why the Exclusions Panel's decision was made.

26. Academy register

A student's name will be removed from the Academy admissions register if:

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

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

Where alternative provision has been made for an excluded student and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register. Where excluded students are not attending alternative provision, code E (absent) will be used.

27. Monitoring arrangements

The monitoring of exclusions is undertaken more regularly, at least each half term, by the National Education Team, through the use of the national MIS.

It is vital that Principals ensure all records of fixed or permanent exclusions are entered onto the MIS within 24 hours of the exclusion.

This policy will be reviewed regularly, in line with the OCL policy review calendar.

28. Links with other policies

This exclusions policy is linked to our

- OCL Trust Learning Policy
- OCL Behaviour for Learning policy
- OCL SEND policy
- OCL Student Equality and Inclusion Policy

APPENDIX A – SAMPLE LETTERS

SAMPLE LETTER FOR FIXED PERIOD OF EXCLUSION OF 5 DAYS OR LESS (but not more than 15 days exclusion in total for the present term)

Dear (Name of Parent or Guardian)

(Student's name) (Date of birth)

I have today made the decision to exclude your son/daughter, (child's name), for a fixed period of (specify period) days.

This decision has not been taken lightly. As you know, we have tried a number of preventative strategies in an attempt to avoid exclusion that have included **(describe the support provided)**.

However, today the following incident occurred...

The account should be very detailed, clear and factual, avoiding subjective or judgemental language

e.g. 'Stephen hit Mark with his fist. Mark was sitting down when Stephen hit him in the middle of his back. Mark has bruising' rather than 'premeditated aggressive and violent behaviour'.

During this exclusion, work will be set and marked by the Academy. Please make arrangements to collect this from reception and return the completed work to the Academy for marking.

Your child should return to the Academy on (date) at (time) **(insert details of your Academy's re-admittance strategy here)**.

You have a duty to ensure that your child is not present in a public place in Academy hours during this exclusion (specify dates) unless there is reasonable justification for this. I must advise you that you may receive a penalty notice from the Local Authority if your child is present in a public place during Academy hours on the specified dates. If this is the case, it will be for you to show reasonable justification as to why your child was in a public place.

You have the right to make a representation to the Exclusion Panel in writing. To do this you should contact (name and address of the EA to the RD).

"In exceptional cases, usually where further evidence has come to light, a further fixed-period exclusion 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 period." (DfE: *Exclusion from maintained schools, academies and pupil referral units in England. Statutory guidance. September 2017 page 8*)

Contacts

You may find it useful to contact:

- Coram Children's Legal Centre on 0345 345 4345 or through http://www.childrenslegalcentre.com/index.php?page=education_legal_practice.
- ACE education on 0300 0115 142 on Monday to Wednesday from 10 am to 1 pm during term time and on the website: <http://www.ace-ed.org.uk/>.
- The National Autistic Society (Schools Exclusion Service (England) on 0808 800 4002 or through schoolexclusions@nas.org.uk.
- Independent Parental Special Education Advice <http://www.ipsea.org.uk/>

Further sources of advice can be accessed from:

- The government's guidance to schools on exclusion <https://www.gov.uk/government/publications/school-exclusion>. 'School discipline and exclusions' and 'Complaint about a school or childminder':
- <https://www.gov.uk/school-discipline-exclusions/exclusions> and <https://www.gov.uk/complain-about-school>.

Yours sincerely

Principal

Copy to: Regional Director

SAMPLE LETTER FOR FIXED PERIOD OF EXCLUSION OF 5.5 and 15 DAYS OR LESS (but not more than 15 days exclusion in total for the present term)

Dear (Name of Parent or Guardian)

(Student's name) (Date of birth)

I have today made the decision to exclude your son/daughter, (child's name), for a fixed period of (specify period) days.

This decision has not been taken lightly. As you know, we have tried a number of preventative strategies in an attempt to avoid exclusion that have included **(describe the support provided)**.

However, today the following incident occurred...

The account should be very detailed, clear and factual, avoiding subjective or judgemental language e.g. 'Stephen hit Mark with his fist. Mark was sitting down when Stephen hit him in the middle of his back. Mark has bruising' rather than 'premeditated aggressive and violent behaviour'.

For the first five school days of the exclusion we will set work for (student's name) and would ask you to ensure this work is completed and returned promptly to the Academy for marking. Please make arrangements to collect this from reception. From the sixth school day of the exclusion onwards - i.e. from **(specify the date)**

Academies are responsible for making their own arrangements for day 6 provision [Inset details here including the address, contact name, start and finish times of full-time education, including the times for morning and afternoon sessions where relevant (where it can reasonably be found out within the timescale)]

Your child should return to the Academy on **(date) at (time) (insert details of your Academy's re-admittance strategy here)**.

You have a duty to ensure that your child is not present in a public place in Academy hours during this exclusion (specify dates) unless there is reasonable justification for this. I must advise you that you may receive a penalty notice from the Local Authority if your child is present in a public place during Academy hours on the specified dates. If so, it will be for you to show reasonable justification.

"In exceptional cases, usually where further evidence has come to light, a further fixed-period exclusion 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 period." (DfE: *Exclusion from maintained schools, academies and pupil referral units in England. Statutory guidance. September 2017 page 8*)

You have the right to request a meeting of the Exclusion Panel to whom you may make representations and to do this you should contact (name and address of the EA to the RD).

Contacts

You may find it useful to contact:

- Coram Children's Legal Centre on 0345 345 4345 or through http://www.childrenslegalcentre.com/index.php?page=education_legal_practice

- ACE education on 0300 0115 142 on Monday to Wednesday from 10 am to 1 pm during term time and on the website: <http://www.ace-ed.org.uk/>.
- The National Autistic Society (Schools Exclusion Service (England) on 0808 800 4002 or through schoolexclusions@nas.org.uk.
- Independent Parental Special Education Advice <http://www.ipsea.org.uk/>

Further sources of advice can be accessed from:

- The government's guidance to schools on exclusion <https://www.gov.uk/government/publications/school-exclusion>.
- 'School discipline and exclusions' and 'Complaint about a school or childminder':

<https://www.gov.uk/school-discipline-exclusions/exclusions> and <https://www.gov.uk/complain-about-school>.

Yours sincerely

Principal

Copy to: Regional Director

SAMPLE LETTER FOR ANY EXCLUSION WHERE TO THE TOTAL NUMBER OF DAYS EXCEEDS 15 DAYS OR LESS

Dear (Name of Parent or Guardian)

(Student's name) (Date of birth)

I have today made the decision to exclude your son/daughter, (child's name), for a fixed period of (specify period) days.

This decision has not been taken lightly. As you know, we have tried a number of preventative strategies in an attempt to avoid exclusion that have included **(describe the support provided)**.

However, today the following incident occurred...

The account should be very detailed, clear and factual, avoiding subjective or judgemental language e.g. 'Stephen hit Mark with his fist. Mark was sitting down when Stephen hit him in the middle of his back. Mark has bruising' rather than 'premeditated aggressive and violent behaviour'.

For the first five school days of the exclusion we will set work for (child's name) and would ask you to ensure this work is completed and returned promptly to the Academy for marking. Please make arrangements to collect this from reception. From the sixth school day of the exclusion onwards - i.e. from **(specify the date)**

Academies are responsible for making their own arrangements for day 6 provision [Inset details here including the address, contact name, start and finish times of full-time education, including the times for morning and afternoon sessions where relevant (where it can reasonably be found out within the timescale)]

Your child should return to the Academy on **(date) at (time) (insert details of your Academy's re-admittance strategy here)**.

You have a duty to ensure that your student is not present in a public place in Academy hours during this exclusion (specify dates) unless there is reasonable justification for this. I must advise you that you may receive a penalty notice from the Local Authority if your student is present in a public place during Academy hours on the specified dates. If so, it will be for you to show reasonable justification.

"In exceptional cases, usually where further evidence has come to light, a further fixed-period exclusion 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 period." (DfE: *Exclusion from maintained schools, academies and pupil referral units in England. Statutory guidance. September 2017 page 8*)

As the length of the exclusion is more than 15 days in total in one term the Exclusion Panel must meet to consider the exclusion. You will be invited to the review meeting, which may be held remotely, where you can give your views to the Exclusion Panel if you wish. The latest date on which the Exclusion Panel can meet is **(insert date here – no later than 15 school days from the date that the Regional Director is notified)**.

If you wish to make representations to the Exclusion Panel you can do so in writing or you can attend to speak to the Exclusion Panel in person. You can, if you wish, be accompanied by a friend or

representative. Please advise **(name of contact) on/at (contact details – address, phone number, email)** as soon as possible, if you have a disability or special needs which would affect your ability to attend a meeting at the Academy. Also, please inform **(name of contact)** if it would be helpful for you to have an interpreter present at the meeting.

You will, whether you choose to make representations or not, be notified by the clerk to the Exclusion Panel of the time, date and location of the meeting. This meeting may be held remotely.

Contacts

You may find it useful to contact:

- Coram Children's Legal Centre on 0345 345 4345 or through http://www.childrenslegalcentre.com/index.php?page=education_legal_practice.
- ACE education on 0300 0115 142 on Monday to Wednesday from 10 am to 1 pm during term time and on the website: <http://www.ace-ed.org.uk/>.
- The National Autistic Society (Schools Exclusion Service (England) on 0808 800 4002 or through schoolexclusions@nas.org.uk.
- Independent Parental Special Education Advice <http://www.ipsea.org.uk/>

Further sources of advice can be accessed from:

- The government's guidance to schools on exclusion <https://www.gov.uk/government/publications/school-exclusion>. 'School discipline and exclusions' and 'Complaint about a school or childminder':
- <https://www.gov.uk/school-discipline-exclusions/exclusions> and <https://www.gov.uk/complain-about-school>.

Yours sincerely

Principal

Copy to: Regional Director

SAMPLE LETTER FOR A PERMANENT EXCLUSION

Dear (Name of Parent or Guardian)

(Student's name) (Date of birth)

I regret to inform you of my decision to permanently exclude (child's name) with effect from (date). This means that (child's name) will not be allowed in this Academy unless he/she is reinstated by the Exclusion Panel.

I realise that this exclusion may be upsetting to you and your family, but the decision to permanently exclude (**child's name**) has not been taken lightly. (**Child's name**) has been excluded because:

The reason for the exclusion should be given in plain English and should be explicit. The Principal should make it clear that s/he has investigated the incident fully, has checked whether the incident was provoked by racial or sexual harassment and allowed the student to give their version of events.

You have a duty to ensure that your child is not present in a public place in Academy hours during this exclusion (**specify dates**) unless there is reasonable justification for this. I must advise you that you may receive a penalty notice from the Local Authority if your child is present in a public place during Academy hours on the specified dates. If so, it will be for you to show reasonable justification.

For the first five school days of the exclusion we will set work for (**student's name**) and would ask you to ensure this work is completed and returned promptly to the Academy for marking. Please make arrangements to collect this from reception.

If student lives in the LA

From the sixth school day of the exclusion onwards — i.e. from (specify the date) Local Authority will provide suitable full-time education. The Alternative Provision School will contact you by letter detailing the arrangements.

If student lives in a different Local Authority:

I have also today informed (name of officer) at (name of Local Authority) of your child's exclusion and they will be in touch with you about arrangements for his/her education from the sixth school day of exclusion. You can contact them at (give contact details)

As this is a permanent exclusion the Exclusion Panel must meet to consider it. This meeting may be held remotely. The Exclusion Panel has the power to reinstate your child immediately or from a specified date, or, alternatively, they have the power to uphold the exclusion in which case you may ask for the decision to be reviewed an Independent Review Panel. The latest date by which the Exclusion Panel can meet is (**specify date – the 15th school day after the date on which the Regional Director was notified of the exclusion**).

If you wish to make representations to the Exclusion Panel you can do so in writing or you can attend to speak to the Exclusion Panel in person. You can, if you wish, be accompanied by a friend or representative. Please advise (**name of contact**) **on/at** (**contact details – address, phone number, email**) as soon as possible, if you have a disability or special needs which would affect your ability to attend a meeting at the Academy. Also, please inform (**name of contact**) if it would be helpful for you to have an interpreter present at the meeting.

You will, whether you choose to make representations or not, be notified by the clerk to the Exclusion Panel of the time, date and location of the meeting. This meeting may be held remotely.

Contacts

If you want advice about exclusions you can contact:

- Coram Children's Legal Centre on 0345 345 4345 or through http://www.childrenslegalcentre.com/index.php?page=education_legal_practice.
- ACE education on 0300 0115 142 on Monday to Wednesday from 10 am to 1 pm during term time and on the website: <http://www.ace-ed.org.uk/>.
- The National Autistic Society (Schools Exclusion Service (England) on 0808 800 4002 or through schoolexclusions@nas.org.uk.
- Independent Parental Special Education Advice <http://www.ipsea.org.uk/>

Further sources of advice can be accessed from:

- The government's guidance to schools on exclusion <https://www.gov.uk/government/publications/school-exclusion>. 'School discipline and exclusions' and 'Complaint about a school or childminder':
 - <https://www.gov.uk/school-discipline-exclusions/exclusions> and
 - <https://www.gov.uk/complain-about-school>.

Yours sincerely

Principal

Copy to: Regional Director

SAMPLE LETTER FOR NOTIFYING PARENTS/CARERS FOR THE EXCLUSION PANEL MEETING

FROM THE CLERK TO THE EXCLUSION PANEL INVITING PARENT/CARER TO EXCLUSION PANEL MEETING

Please delete the information in 'italics' before sending the letter.

Dear [*Parent's name*]

Re: Permanent Exclusion of [*NAME OF STUDENT*] – [*DOB:*]

I am writing to confirm that the Exclusion Panel will meet in person / remotely (delete as needed) to consider [*STUDENT NAME'S*] permanent exclusion on [*DAY and DATE*]. The meeting will start at [*TIME*]. The meeting will be held at (*enter location and address*). Please come to (*reception*) 10 minutes before the scheduled start / We will send you an invitation to the remote meeting by email. (delete as needed)

You and [*STUDENT NAME*] are invited to attend this meeting. [*STUDENT NAME*] should attend the meeting in full Academy uniform.

If you wish to be accompanied to the meeting by a friend or representative please let me know in advance of the meeting. [*include if required*] **Please advise me immediately if you need an interpreter present at the meeting so that I may make arrangements.**

You have the right to make representations, both in writing before the meeting and by speaking at the meeting, if you wish. Should you choose to submit written information please send this to me before the hearing so that I may forward it to the Exclusion Panel.

The people serving on the Exclusion Panel will be [**NAME and title 1**], [**NAME and title 2**] and [**NAME and title 3**]. The meeting will be clerked by the clerk to the Exclusion Panel.

A copy of all the paperwork related to the exclusion will be sent out to you in advance of the meeting.

In the meantime if you have any questions please do not hesitate to get in touch with me.

Yours sincerely

Clerk to the Exclusion Panel

CC: Members of the Exclusion Panel
CC: Principal
CC: Regional Director
CC: Local Authority

SAMPLE LETTER - TO BE USED BY THE CLERK TO THE EXCLUSION PANEL WHEN WRITING TO THE PARENT/CARER CONFIRMING THE PANEL'S DECISION TO UPHOLD THE PERMANENT EXCLUSION.

Dear **[Parent/Carer's name]**

The meeting of the Exclusion Panel at **[name of Academy]** on **[date]** considered the decision by **[Principal]** to permanently exclude your **[son/daughter]**, **[student name]**.

The Exclusion Panel, considered the interests and circumstances of **[student name]**, including the circumstances in which **he/she** was excluded, as well as the interests of other pupils and people working at the school. The Panel considered whether the decision to exclude **[student name]** was lawful, reasonable and procedurally fair, taking account of the Principal's legal duties and any evidence that was presented to the Exclusion Panel in relation to the decision to exclude.

After carefully considering the representations made and all the available evidence, have decided to uphold **[student name]**'s permanent exclusion.

The reasons for the Exclusion Panel's decision are as follows: **[give reasons in as much detail as possible, explaining how the committee arrived at its decision]**.

You have the right to ask for the decision to be reviewed by an Independent Review Panel (IRP). If you wish to request a review please notify **(name and address details of Academy's person dealing with arrangements for setting up an Independent Review Panel)** that you wish to apply for a review of the decision in respect of the permanent exclusion by no later than **[specify the latest date –25 (for Exclusions occurring between 25 September 2020 and 24 March 2021) school days (after the day on which notice in writing was given of the Exclusion Panel decision to the parents. Where notification was given by first class post, it is treated as having been given on the 2nd working day after which it was posted if sent by first class mail)]**. Your application for review must state your reasons as to why you are requesting a review and any written evidence should also be submitted. Where appropriate, you should include a reference to how the student's special educational needs are considered to be relevant to the exclusion.

If you have not lodged a request for a review by **[repeat latest date]**, your right to request a review will lapse. Please advise **[contact]** if you have a disability or special needs which would affect your ability to attend a review. Also, please inform **[contact]** if it would be helpful for you to have an interpreter present at the review meeting.

Regardless of whether your child has recognised special educational needs (SEN), you have the right to request an SEN Expert to attend the review. There would be no cost to you for this appointment. The SEN expert is there to provide impartial advice to the panel on how special educational needs might be relevant to the exclusion. Please make it clear in your application whether you wish for an SEN expert to be appointed.

If you decide to request a review, it will be heard by an IRP. You may be accompanied by a friend and/or, at your own expense, appoint someone to make written and/or verbal representations on your behalf. A three member panel would comprise one serving or recently retired (within the last five years) head teacher/principal, one serving or recently serving, school/Academy governor and one lay member, who would be chairperson. The IRP would rehear all the facts of the case - if you have fresh evidence to present to the Panel you may do so. The Panel are required to meet no later than the

25th school day after the date on which a review request is lodged. In exceptional circumstances, panels may adjourn a hearing until a later date.

In determining your review the IRP can make one of three decisions:

- they may uphold your child's exclusion;
- they may recommend that the governing body reconsiders their decision; or
- they may quash the governing body's decision and direct that the governing body considers the exclusion again.

IRP panels may be held remotely due to Covid-19

In addition to the right to apply for a review by an IRP, if you believe that the exclusion has occurred as a result of discrimination, you may make a claim under the Equality Act 2010 to the First-tier Tribunal (special Educational Needs and Disability), in the case of disability discrimination, or the County Court, in the case of other forms of discrimination. A claim of discrimination made under these routes should be lodged within six months of the date on which the discrimination is alleged to have taken place e.g. the day on which your child was excluded.

The arrangements currently being made for **[student's name]**'s education will continue. **[specify details here]**.

I would like to remind you of the following sources of advice and assistance:

The Local Authority Exclusions Team. The Team can provide advice concerning the exclusion process.

Tel:

Email address: (as appropriate)

A link to sources of impartial advice for parents such as the Coram Children's Legal Centre (www.childrenslegalcentre.com) or ACE Education (<http://www.ace-ed.org.uk>) and their limited advice line service on 03000 115 142 on Monday to Wednesday from 10 am to 1pm during term time);

The statutory guidance on exclusions is available at:

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

Yours sincerely

[Name]

Clerk to Exclusion Panel

SAMPLE LETTER FROM THE CLERK TO PARENT(S) OVERTURNING A PERMANENT EXCLUSION.

Dear **[Parent/Carer's name]**

The meeting of the Exclusion Panel at **[name of Academy]** on **[date]** considered the decision by the Principal to permanently exclude **[student name]**. The Panel, after carefully considering the representations made and all the available evidence, overturned the Principal's decision to exclude **child's name** from the Academy.

The reasons for the Exclusion Panel's decision are as follows: **[give reasons in as much detail as possible, explaining how the committee arrived at its decision]**.

Your child may therefore return to the Academy on **[time & date]**.

To support **child's name's** return and reintegration to the Academy the following will be organised.....

A copy of this letter will be placed on **[his/her]** their record. Please note that it is not possible to delete all record of this exclusion having been imposed, but the child's file will make it clear that it was subsequently overturned by the Panel.

You may find it useful to contact the Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on education matters. They can be contacted on 0300 330 5485 or at <http://childlawadvice.org.uk>

Statutory guidance on exclusion can be found here:
<https://www.gov.uk/government/publications/school-exclusion>

Yours sincerely,

Clerk to the Exclusion Panel

CC: Regional Director

CC: LA Exclusions representative

APPENDIX B – QUICK REFERENCE CHART

Exclusion Panel for fixed term and permanent exclusions

Number of Days (or an aggregate in one term)	Panel required – a Regional Director will Chair and then two Volunteers (Hub Council members or appropriate community volunteers) or a Director or Head of Service (not the National Directors)
Lunchtime	<p>NB – Lunchtime exclusion is a fixed-period exclusion (equivalent to one school half day)</p> <ul style="list-style-type: none"> • Rights of representation and expectations of the panel to meet will be the same as those stated below. Obviously, the category (below) into which they will fall, will be dependent upon the number of days to which the lunchtime exclusion adds up.
1–5	<ul style="list-style-type: none"> • No obligation for the panel to meet, even if the parents choose to make representations. • Should the panel decide to meet, there is no guidance restricting when this should be. • No power of reinstatement.
6–15	<ul style="list-style-type: none"> • No obligation for the panel to meet, unless the parents choose to make representations. • If required, the panel should meet between the 6th and 50th school day after the date the RD was informed of the exclusion by the Principal. • Panel has power of reinstatement.
+15 and permanent exclusions	<ul style="list-style-type: none"> • The panel should meet between the 6th and 15th school day after being informed of the exclusion by the Principal, regardless of whether or not the parents choose to make representations. • Panel has power of reinstatement. • The panel may have to meet remotely
Where a public examination will be missed	<ul style="list-style-type: none"> • Panel should try to meet before the date of the examination. If, exceptionally, the Chair does not consider it practicable for the panel to meet before the time when the student is due to take the public examination, s/he alone may consider the exclusion and decide whether or not to reinstate the student (these are the only circumstances in which a Chair can sit alone to review an exclusion). • Panel has power of reinstatement.

APPENDIX C – INFORMATION FOR COLLATION

Information to consider collating for an exclusion panel: *(this is not an exhaustive list)*

- Attendance sheet (current academic year)
- Fixed-period exclusion letters plus evidence relating to them
- Behaviour log/chronology including:
 - ✓ description of incidents of poor behaviour
 - ✓ sanctions/actions taken and by whom
 - ✓ support strategies
- Evidence of incidents including:
 - ✓ witness accounts from adults and students
 - ✓ the account of the excluded student
 If appropriate:
 - ✓ summary of incidents
 - ✓ photographic evidence
 - ✓ accident/incident reports
- Examples of parental involvement e.g. letters, logged telephone calls, minuted meetings.
- Most recent academic report
- Additional evidence of support strategies:
 - ✓ BSS consultation sheets/placement report
 - ✓ progress reports from outside agencies
 - ✓ educational psychologist's report
 - ✓ social care and health
 - ✓ CAMHS referral
 - ✓ YISP/YOTS intervention
 - ✓ behaviour contracts
 - ✓ mentoring progress reports
- For students on the SEND register:
 - ✓ EHCP (if relevant)
 - ✓ Latest individual support plan and review (if applicable)
 - ✓ PSP documentation
 - ✓ PPP and CRISP assessment
 - ✓ CAF process documentation

APPENDIX D - BEST PRACTICE

EXCLUSIONS EVIDENCE BASES HAVE BEEN RECENTLY SEEN AT EXCLUSION PANELS AT OA MEDIACITYUK:

TABLE OF CONTENTS

EXAMPLE

DOCUMENT TITLE	PAGE NUMBER
Cover sheet-overview of the student during their time at the Academy including examples of	1
Incidents, serious incidents related to breaches of Academy policy	2 - 3
Incident-this is usually the incident directly leading to the PEX	4
LA PEX documentation including letter to parent advising of the PEX	5
Interventions	6 - 7
PSP with review dates/targets	8
Communication with parent/guardian, letters home etc	9
Minutes of formal behaviour panel meetings	10
Progress data	11 -12
Safeguarding information	13 - 14

APPENDIX E – AGENDA FOR EXCLUSION PANEL MEETINGS TO CONSIDER EXCLUSIONS

ADVICE:

- The meeting may have to be held remotely – see guidance above
- Hold the meeting in a neutral part of the Academy. Don't hold it in the Principal's office.
- Don't invite the Principal and LA rep into the meeting before the family.
- Have a written agenda
- Have the meeting minuted – a good written record is essential – particularly re questions and answers. Ensure that the Clerk hasn't had direct involvement with the exclusion of incidents or family.
- Allow sufficient time for the meeting to take place.
- Adjourn? If any party has not received the papers it is wise to take the decision to adjourn and this needs to be minuted by the Clerk.
- Have regard to Academy policies – behaviour, equal opportunities, drugs etc.
- Give all parties the opportunity to speak – Academy, family, representatives, LA, student.
- Ask questions of the Academy and family – clarify, incident, investigation.
- Don't answer questions that the Principal should be responding to.
- Don't 'tell off' the excluded student.
- Ask what has been done to avoid exclusion – strategies, support etc. Could the Academy have done more to avoid exclusion?
- Distinguish between one off/cumulative exclusion – clarify with Principal.
- Are you satisfied with investigations – any provocation, bullying? Are the witness accounts thorough? Has the Academy complied with the DfE and Oasis Exclusion Guidance?
- Be aware of treatment regarding other students involved. Are there different sanctions for others involved?

AGENDA

1. Chair of the meeting introduces him/herself and asks all parties to introduce themselves.
2. The Clerk checks that all present have received the appropriate written information and explains to the parents/carers, the student and their representative that the purpose of the meeting is to decide whether the Panel will consider reinstatement or confirm the permanent exclusion of the student to the Academy, and that there will be an opportunity for questioning by the other parties after each presentation.
3. They must also explain that the outcome of the meeting will be communicated to all parties by a letter confirming the decision. The letter must be sent to the parent(s)/carer(s), Principal and Local Authority Exclusions Team without delay. *A telephone call or face to face feedback is not an option because many panels will take many hours or longer to reach a decision*
4. The Clerk must write to parents/carers giving the Panel's decision, an explanation of how the Panel reached its decision and details of how to appeal against the Panel's decision.
5. Chair of the meeting invites the Principal to explain the reasons for the permanent exclusion of the student.

6. All parties may ask questions.
7. The Chair asks the parent(s)/carer(s) (and their representative where present) to make their representations regarding the exclusion.
8. All parties may ask questions.
9. The Chair invites the student (or representative) to make any comments about their exclusion.
10. All parties may ask questions.
11. If present and governors give consent, the Local Authority officer is asked to give their views on the exclusion.
12. All parties may ask questions.
13. The Chair invites the Principal to sum up the case.
14. The Chair invites the parent(s)/carer(s) to sum up his/her case.
15. Parent(s)/carer(s), student, representative, principal, Local Authority officer (if present) and others are asked to withdraw whilst a decision is made. (NB. Details on how the Panel will communicate the decision will already have been given to all parties upon commencement of the meeting - see point 3).
16. The Clerk may stay with the committee to help them with reference to his/her notes of evidence and in wording their decision.
17. The Panel reaches a decision regarding the reinstatement or otherwise of the student.
18. If requested, minutes of the meeting should be available to any of the parties present.

APPENDIX F – EXCLUSION CHECKLIST FOR PRINCIPALS AND REGIONAL DIRECTORS

The checklist is for guidance. It is not mandatory for each exclusion.

Policy and document section	Who was involved in this process for checking or discussion?	When was this done?	What type of evidence was reviewed and where is that stored?
DFE guidance – read the guidance making sure it is the most recent version			
Read the Oasis Policy			
Academy’s should give consideration to a multi-agency assessment that goes beyond the student’s educational needs			
Early intervention to address underlying causes of disruptive behaviour should include an assessment of whether appropriate provision is in place to support any SEN or disability that a student may have			
Principals should consider what extra support might be needed to identify and address the needs of students from key vulnerable groups in order to reduce their risk of exclusion for example: students eligible for Free School Meals; Looked After Children and students from certain ethnic groups including Gypsy / Roma, Travellers of Irish Heritage and Black Caribbean communities			
Referral to specific support service may depend on individual circumstances include e.g. Educational Psychologist An Advisory Teaching Service Speech and Language Therapy Service Families support services Youth Support Services Children and Young People’s Service Alternative Provision School or another Alternative Provider Voluntary Sector Support Services.			

<p>Principals must take account of their statutory duties to the SEND Code of Practice when administering the exclusion process. They should, as far as possible, avoid excluding permanently any student with an Education Health and Care Plan (EHCP) or a Statement of SEND. Where an Academy identifies a student with an EHCP/Statement of SEND who is at serious risk of disaffection or exclusion, an interim or early review should be called. It will then be possible to consider the student’s changing needs and provision as an alternative to the student being excluded.</p>			
<p>A Managed Move is defined as a formal agreement between two schools, a student and their parents. It allows a student at risk of permanent exclusion to transfer to another school. The move requires the agreement of the child’s parent, the Principal of the student’s school, the Principal or head teacher of the proposed school, and the LA. A Managed Move is never an early or first response when a student is failing at school because of behaviour. Rather, it should be considered as part of a measured response to supporting their emotional social and behavioural needs. It is likely to be a strategy considered in the later stages of a support plan where there is little or no evidence of success</p>			
<p>Academies must apply their behaviour policies in a consistent, rigorous and non-discriminatory way with due regard to the Equality Act 2010. This Act has provision that allows Academies to take positive action to deal with particular disadvantages affecting one group, where this can be shown to be a proportionate way of dealing with such issues.</p>			
<p>Principals should take account of any contributing factors that are identified after an incident of poor behaviour has occurred (e.g. where it comes to light that a student has suffered bereavement, has mental health issues or has been subject to bullying.)</p>			

<p>Principals must take account of their legal duty of care when sending a student home following the exclusion. The head teacher should also give particular consideration to the fair treatment of students from groups who are vulnerable to exclusion. Principals should ensure that:</p> <ul style="list-style-type: none"> • They are meeting their legal duty of care towards students. Parents must be formally notified of the exclusion and the student must not be placed at risk by, for example, being sent home without adequate supervision. • Child protection issues are taken into account e.g. bearing in mind the child's age and vulnerability. 			
<p>Principals should consider whether any student may be at risk of Child Sexual Exploitation (CSE) and the implications of this on the decision to exclude. Exclusion from an Academy or unexplained absences from an Academy is a risk indicator on the CSE screening tool.</p>			
<p>Working with the Principal, the Designated Safeguarding Lead (DSL) is responsible for maintaining a confidential record of all students for whom there are Child Protection (CP) issues or who have a Child Protection Plan (CPP) and for managing the education contribution to the CPP.</p>			
<p>A student, for whom there are CP issues, is more at risk of harm if their family is placed under unexpected stress. Any exclusion can create stress and each Academy should have systems that allow current information about a student's situation to be considered when the Principal is thinking about exclusion.</p> <p>The DSL can advise the Principal and contact children's social care before the Principal takes action to exclude. In discussion with the Principal or DSL, the social worker may decide to call a core group meeting for children with CP issues to plan how to ensure the student is kept safe from significant harm. The Principal will normally consult a student's social worker before making the decision to exclude. In some cases, it may be appropriate for the Principal to delay the dates for exclusion e.g. 2-3 days to allow the social worker to plan how to ensure the student is kept safe from significant harm during the exclusion. The Principal may issue an internal exclusion for the intervening days in the Academy.</p>			

<p>If a parent does not comply with the exclusion, by sending the excluded student to the Academy, or by refusing to collect, or arrange collection of the student, the Academy must consider the student's safety in deciding what action to take. Any exclusion should not be enforced if doing so may put the safety of the student at risk. The social worker may help to resolve the issue with the parents of any student with a CP issues</p>			
<p>Academies can still use internal exclusions. Such exclusions are served on the Academy site and are not treated as an exclusion from the Academy. Internal exclusion may be more appropriate in cases where a student is a Child in Care (CiC) who is subject to a Child Protection Plan, or for whom the Principal believes formal exclusion might pose a safeguarding risk.</p>			
<p>Children in Care / Looked After Children are a group of students who are vulnerable to exclusion. The LA Virtual School Lead should be contacted on the day of exclusion. LA protocol should be followed when CiC/LAC children are excluded</p>			
<p>When establishing the facts in relation to an exclusion the Principal 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.</p>			
<p>Evidence could consist of witness statements, photographs, screen shots from social network sites, physical evidence or behaviour incident records. In the case of exclusions for persistent disruptive behaviour, head teachers should also provide evidence that preventative measures have been used.</p>			
<p>Principals should give students the opportunity to present their views before taking the decision to exclude.</p>			
<p>All witness statements should be attributed, signed and dated, unless the Academy 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.</p>			

<p>The following advice is taken from Witness Statements Preparation Guide, European Human Rights Advocacy Centre, 2008.</p> <p><i>If an adult is writing down the statement of a young person, or asking a student to write their own statement, they must avoid using leading questions. Useful questions might include:</i></p> <ul style="list-style-type: none"> • <i>When did the incident take place?</i> • <i>Where was the witness at the time and what was he or she doing?</i> • <i>Who was the witness with and what did the witness see?</i> • <i>What did each person say or do?</i> 			
<p>Statements should be factual and in the words of the witness: 'I did this...', and 'I saw...'. Statements could also include photos, maps, sketches or diagrams. When the decision is made to 'anonymise' witness statements by students, the Academy should contact the student's parents of the witness to explain that the 'anonymised' statement will be presented to the Exclusions Panel. The Panel can read the original statements and decide whether to lift the 'veil of anonymity' to ensure fairness. In this case all parties at the meeting will see the names of the witnesses. Parents of the witness will need to agree to this in advance of the meeting otherwise the evidence may be discounted.</p>			
<p>Principals need not postpone taking a decision about an exclusion solely because a police investigation is underway and/or any criminal proceedings may be brought. In such circumstances, Principals will need to take a decision on the evidence available to them at the time. It may be advisable, where the evidence is not clear-cut or is still coming to light, to first exclude the student for a fixed period.</p>			
<p><u>Fixed term exclusion</u> A student may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year). A fixed period exclusion does not have to be for a continuous period. In exceptional cases, usually where further evidence has come to light, a further fixed-period exclusion 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 period.</p>			

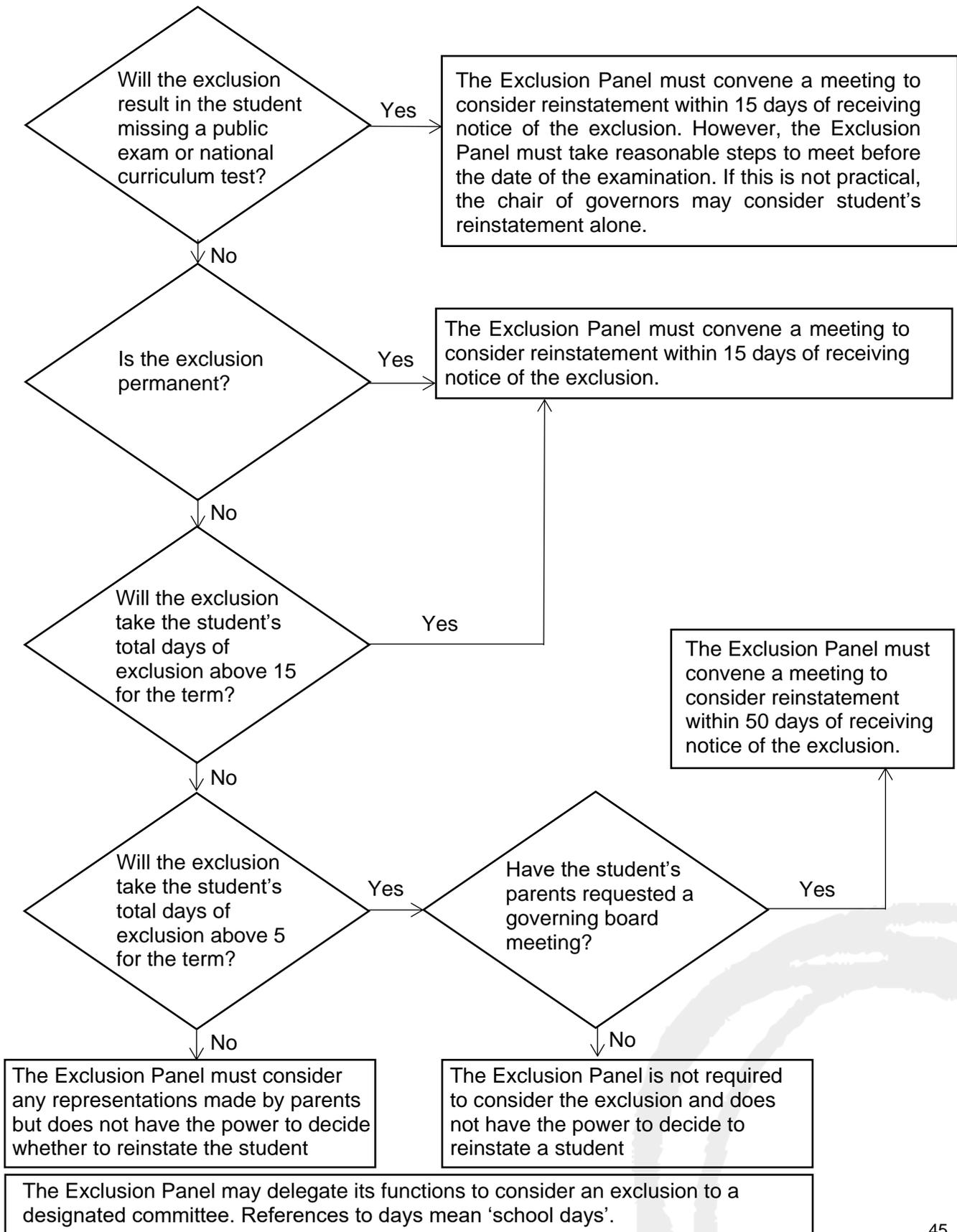
<p>Fixed period exclusions should be for the shortest time necessary. Ofsted inspection evidence suggests 1-3 days are often long enough. A longer period of exclusion may have adverse educational consequences.</p>			
<p>A lunch-time exclusion should be recorded as a half day.</p>			
<p>Academies should take reasonable steps to set and mark work for students during the first five days of an exclusion. Work that is provided should be accessible and achievable by students outside of the Academy.</p>			
<p><u>Permanent exclusion</u> A decision to exclude a student permanently should only be taken:</p> <ul style="list-style-type: none"> • in response to serious or persistent breaches of the Academy’s behaviour policy; and • Where allowing the student to remain in the Academy would seriously harm the education or welfare of the student or others in the Academy. <p>Where practical, Principals should give a student a final opportunity to present their case before taking the decision to exclude.</p> <p>While current government guidance provides no examples of what a serious breach of the Academy’s behaviour policy might be, Principals might reasonably consider permanent exclusion in the following, as cited in previous government guidance (2008):</p> <ul style="list-style-type: none"> • serious actual or threatened violence against another student or member of staff • sexual abuse or assault • supplying an illegal drug • carrying an offensive weapon 			
<p><u>Informing parents</u> The Principal must, without delay notify parents of the period of an exclusion and the reasons for it, their legal responsibilities during the first five days of their child’s exclusion and follow up in writing with:</p> <ul style="list-style-type: none"> • the reasons for the exclusion; • the period of a fixed period exclusion or, the fact that it is permanent; • parents’ right to make representations about the exclusion to the governing board and how the student may be involved in this; 			

<ul style="list-style-type: none"> • how many representations should be made to Exclusion Panel, depending on the length of the exclusion; • where the Exclusion Panel is legally required to consider the exclusion, that parents have a right to attend a meeting, be represented at this meeting (at their own expense) and to bring a friend. 			
<p>The Academy must inform parents of the days on which they must ensure that the student is not present in a public place at any time during Academy hours, for the first 5 days of any exclusion and that a Penalty Notice can be issued if they fail to ensure this.</p>			
<p>From the sixth day of a fixed period exclusion, Academies are required to arrange alternative full-time education for the excluded student.</p>			
<p>‘Where a child receives consecutive fixed-period exclusions, these are regarded as a cumulative period of exclusion for the purposes of this duty. This means that if a child has more than five consecutive school days of exclusion, then education must be arranged for the sixth school day of exclusion, regardless of whether this is as a result of one fixed-period or more than one fixed-period exclusion.’ (DfE guidance Section 5 Paragraph 45)</p> <p>Local Authorities are required to arrange full-time education from the sixth day of a permanent exclusion.</p>			
<p>If alternative provision is being arranged by the Academy, then the following information must be included in the letter to parents: the address, contact name to whom the student should report; start and finish date and times of any such full-time education, including the times for morning and afternoon sessions where relevant (where it can reasonably be found out within the timescale).</p>			
<p>Parents must be informed where a further fixed period exclusion or a permanent exclusion has been issued. The Principal may also withdraw an exclusion that has not been reviewed by the Exclusion Panel. In such cases the Principal must write again to the parents explaining the reasons for the change and providing any additional information.</p>			

<p><u>Informing the Regional Director and the Local Authority</u> The Principal must, without delay, notify the Regional Director, and the Local Authority of any permanent exclusion or any fixed period exclusion which would result in the student:</p> <ul style="list-style-type: none"> • being excluded for more than five days (or more than ten lunchtimes) in a term • missing a public examination or national curriculum test. 			
<p>Academies are no longer required to arrange a re-admittance meeting for a student and parents following an exclusion. However, Academies should have a strategy for reintegrating students that return to the Academy following a fixed period exclusion, and for managing their future behaviour. Each Academy should have a clear strategy for reintegration.</p>			
<p><u>Considering reinstatement of a students</u> The Exclusions Panel have a duty to consider the reinstatement of an excluded student within 15 school days of receiving the notice of the exclusion if:</p> <ul style="list-style-type: none"> • The exclusion is permanent • It is a fixed-term exclusion which would bring the student's total number of school days of exclusion to more than 15 in a term • It would result in a student missing a public examination 			
<p>Where an exclusion would result in a student missing a public examination, the Exclusions Panel will consider the reinstatement of the student before the date of the examination. If this is not practicable, the Exclusions Panel will consider the exclusion and decide whether or not to reinstate the student.</p>			
<p><u>Academy register</u> A student's name will be removed from the Academy admissions register if:</p> <ul style="list-style-type: none"> • 15 school days have passed since the parents were notified of the exclusion panel's decision to not reinstate the student and no application has been made for an independent review panel, or • The parents have stated in writing that they will not be applying for an independent review panel 			
<p>Where an application for an independent review has been made, the Academy will wait until that review has concluded before removing a student's name from the register.</p>			

Where alternative provision has been made for an excluded student and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.			
Academies monitor the number of exclusions every term and reports back to their Regionals Director. They also liaise with the local authority to ensure suitable full-time education for excluded students.			
Have the correct letters been used?			
Have all timescales been met?			
Has the SEND and Behaviour for Learning Policy been read?			

APPENDIX G – A SUMMARY OF THE EXCLUSION PANEL’S DUTIES TO REVIEW THE PRINCIPAL’S EXCLUSION DECISION



RACI matrix

“R” for anyone who is “Responsible” for a task listed in the policy, an “A” for anyone who is “Accountable”, a “C” for anyone who must be “Consulted” under the policy and “I” for anyone who must be “Informed” about aspects of the policy.

Policy Element		Leadership			Academy	Services	Team	
		Board	OCL CEO	OCL COO	Regional Director	Academy Principal	Governance Lead	Regional Director
Avoiding illegal exclusions					I			
Policy is kept up to date with DfE guidance	R	R						
Implanting preventative measures					R			
Agreeing a FTE					R			
Agreeing a PEX					R			
Formation of the Exclusions panel					R		C	C
Preparing evidence for the Exclusion panel					R			C
Organisation of IRP						C		C
Removal of student from academy register				I	R			C
Monitoring of policy		R						
Sample letters		R						

Document Control

Changes History

Version	Date	Owned and Amended by	Recipients	Purpose
1.0	30 th October 2017	Chris Chamberlain	All OCL Principals	Updated legislation
1.1	5 th March 2018	Chris Chamberlain	All OCL Principals	Additional detail
1.2	8 th March 2019	Chris Chamberlain	All OCL Principals	Additional detail
1.3	31 st August 2019	Chris Chamberlain	All OCL Principals	Additional detail
1.4	5 th October 2020	Chris Chamberlain	All OCL Principals	Additional detail

Policy Tier

- Tier 1
 Tier 2
 Tier 3
 Tier 4

Owner

Chris Chamberlain

Contact in case of query

chris.chamberlain@oasisuk.org

Approvals

This document requires the following approvals.

Name	Position	Date Approved	Version
John Murphy	CEO, OCL	30 th October 2017	1.0
John Murphy	CEO, OCL	5 th March 2018	1.1
John Murphy	CEO, OCL	8 th March 2019	1.2
John Murphy	CEO, OCL	8 th September 2019	1.3
National Education Team	NET	September 2019	1.3
John Murphy	CEO, OCL	5 th October	1.4
Directors' Meeting		19 th October 2020	1.4

Position with the Unions

Does the policy or changes to the policy require consultation with the National Unions under our recognition agreement?

- Yes
 No

If yes, the policy status is:

- Consulted with Unions and Approved
- Fully consulted (completed) but not agreed with Unions but Approved by OCL
- Currently under Consultation with Unions
- Awaiting Consultation with Unions

Date & Record of Next Union Review

Location

Tick all that apply:

- OCL website
- Academy website
- Policy portal
- Other: state

Customisation

- OCL policy
- OCL policy with an attachment for each academy to complete regarding local arrangements
- Academy policy
- Policy is included in Principals' annual compliance declaration

Distribution

This document has been distributed to:

Name	Position	Date	Version
All OCL Principals	Principal	1 st September 2019	1.3
All OCL Principals	Principal	5 th October 2020	1.4