



Exclusion Policy

Academy Handbook

Description	By Whom	Date
Established	TM	5.2.15
Reviewed	TM	16.3.16
Approved – Board of Trustees		23.11.15 26.9.16

Introduction

The current DFE guidance to be followed in relation to disciplinary exclusion from school was published in February 2015 and relates to all exclusions which occur from 05 January 2015.

Principals, governing bodies, Academy Trusts, LA's, independent review panel members and clerks, and SEN experts must by law have regard to this guidance when deciding:

- whether to exclude a pupil;
- whether to uphold an exclusion;
- whether to direct reinstatement;
- whether to recommend or direct that the Board of Trustees considers the exclusion again.

Behaviour policies should be widely publicised so that pupils, parents and all school staff are aware of the standards of behaviour expected and the range of sanctions. DFE Exclusion Guidance contains information on promoting positive behaviour and early intervention.

Exclusion should only be used as a last resort when a range of other strategies have been tried and exhausted. Most exclusions are the result of persistent breaches of the schools discipline policy. A permanent exclusion for a serious breach (e.g. a one-off or first offence) should only happen in the most serious of circumstances.

Maintained schools and academies have the power to direct a pupil off-site for education to improve his or her behaviour. A Pupil can also transfer to another school/academy as part of a 'managed move'. The latter requires the consent of the parent/carer.

This policy provides an overview of the exclusion process. It is not intended to replace the DFE Exclusion Guidance, which should be followed in all cases.

Any decision of an academy in relation to exclusion must be made in line with the principles of the Human Rights Act – that it is lawful, rational, reasonable, fair and proportionate.

Any reference in this policy to parent(s) includes all those with parental responsibility.

The Harmony Trust Board of Trustees may delegate decision making to the Chief Executive or their representative.

Section 2 – Exclusion from School / Academy

The procedures in the DFE Exclusion Guidance apply to all maintained schools, Academies, Free Schools, maintained nursery schools and Pupil Referral Units and all registered pupils in them, whether below or above compulsory school age. They do not apply to independent schools, city technology colleges or sixth form colleges, which have separate exclusion procedures.

There are two types of exclusion:

1. Fixed period exclusion

This is an exclusion for a **fixed number of days** during which the child must remain at home up to the first 5 days and the Board of Trustees must ensure the pupil receives full time education provision from the 6th day. A maximum of 45 days applies across each school year for any pupil, and work should be set and marked in all cases by the school. A pupil is entitled to return to school once the period of exclusion has ended.

A pupil may be excluded during **lunchtimes** only for a **fixed number of days**. Each lunchtime exclusion is equivalent to half a day fixed period exclusion. Arrangements should be made to provide a lunch if the pupil is entitled to free school meals. If a parent refuses to co-operate with a properly given lunchtime exclusion by refusing to collect (or arrange to have collected) his or her child, the school must have due regard for the pupil's safety in deciding what action to take.

2. Permanent Exclusion

This is where the Principal's intention is that the pupil should not be allowed to return to the school. The decision should only be taken:

- in response to a serious breach/persistent breaches of a school's discipline policy and;
- if allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

In most cases, this will be after a wide range of alternative strategies have been tried without success, however, there will be exceptional circumstances where, in the Principal's judgement, it might be appropriate to permanently exclude a child for a serious breach (one-off or first offence). These might include serious actual or threatened violence, sexual abuse/assault, supplying an illegal drug or carrying an offensive weapon.

3. Unofficial exclusions

Formal exclusion is the only legal method of removal if a pupil is sent home for disciplinary reasons (including lunch times). ***"Informal or unofficial exclusions are illegal"*** regardless of whether they are done with the agreement of parents or carers.

Section 3 – Reaching the decision to exclude

1. General Advice

Only the Principal, (or, in their absence, the acting Principal) can exclude a pupil. The Principal may consult others, but not anyone who may later have a role in reviewing the Principal's decision.

Exclusion should not be imposed in the heat of the moment, unless there is an immediate threat to the safety of others in the school or the pupil concerned.

The decision on whether to exclude is for a Principal to take. Where practical, Principals should ensure that a thorough investigation has been carried out and allow and encourage pupils to present their case before taking the decision to exclude. Establishing facts will be decided on the balance of probabilities.

Whilst exclusion may still be an appropriate sanction, Principals should take account of any contributing factors that are identified after an incident of poor behaviour has occurred. For example, where it comes to light that a pupil has suffered bereavement, has mental health issues or has been subject to bullying or provocation and the seriousness and / or persistence of the pupils behaviour.

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 pupil may have. Principals should also consider the use of a multi-agency assessment (including CAF) for pupils who demonstrate persistent disruptive behaviour. Such assessments may pick up unidentified special educational needs but the scope of the assessment could go further, for example, by seeking to identify mental health or family problems.

2. Fixed Term or Permanent

In many cases investigation may not be immediately possible if, for example, the incident is complex and a number of witness statements are required.

In this case, a Principal may issue a fixed term exclusion for a short period (a maximum of 5 days is advised);

- to allow investigation to take place;
- to give opportunity for a reasoned decision.

In this case the letter informing of the fixed term exclusion should clearly state that the reason for the fixed term exclusion is **“to allow investigation into an incident which may result in permanent exclusion”**. The letter should not state that the fixed term exclusion is, in itself, punishment for the incident under investigation. Once the investigation is complete, a further letter should be sent containing one of the following;

- notification for the pupil to return to school;
- an extension to the fixed term exclusion;
- notification of a permanent exclusion.

In exceptional cases, usually where further evidence, not available at the time of the investigation, has come to light a fixed period exclusion may be extended or converted to a permanent exclusion. Similarly, a Principal may choose to withdraw an exclusion in the light of new evidence.

The Academy should take reasonable steps to set and mark work for pupils during the first five days of an exclusion, and alternative provision must be arranged from day 6 of an exclusion.

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

3. Pupils from vulnerable groups

Pupils with Special Educational Needs (SEN)

Schools and governing bodies have a statutory duty to do their best to ensure that the necessary provision is made for any pupil who has SEN and to avoid excluding permanently any pupil with a statement of SEN. Where a pupil has a statement of SEN and is at risk of exclusion, schools should request an early annual review or interim/emergency review.

Disabled Pupils

Schools have a legal duty under the Equality Act 2010 not to discriminate against disabled pupils by excluding them from school because of their disability. This applies to permanent and fixed term exclusions.

Race Relations

The law places a general duty on all schools to have due regard to the need to eliminate unlawful racial discrimination and promote equality of opportunity and good relations between people of different racial groups. The law also places a number of specific duties on schools, including duties to assess the impact of policies and to monitor the operation of those policies on pupils, parents and staff from different racial groups.

Looked After Children

Looked After Children are at risk of low attainment in school and exclusion. Schools should be especially sensitive to exclusion issues where Looked After Children are concerned. Schools should try every practicable means to avoid exclusion and should seek LA and other professional advice as appropriate.

4. Behaviour outside School

There are situations where a pupil may be excluded for behaviour outside school. Further advice should be sought from the Local Authority Behaviour and Attendance Service in this instance.

Police Involvement and Parallel Criminal Proceedings

The process of disciplinary exclusion from school and criminal proceedings can and should run parallel, however decisions should not be postponed merely because the police investigation has not been concluded.

Section 4 – Responsibilities of the Principal

Principals should follow the procedures set out in the DFE Exclusion Guidance, which has been designed to ensure fairness and openness in the handling of exclusions. Following the guidance will reduce the chance of any successful legal challenge to the exclusion at a later stage.

Informing parents

Once a decision to exclude has been reached, the parent must be notified without delay, ideally by telephone, followed up with a letter within one school day. There are specific requirements for what should be stated in the letter and model letters are included within this policy document. Copies can be found in Section 12 of this policy.

It is important to consider the reason for exclusion stated in the letter, as further reasons cannot be introduced at a later date.

Leaflets for parents relating to fixed term and permanent exclusions are available on the Oldham Council website. A copy should be sent with the exclusion letter.

Informing Trustees and the LA

Without delay, preferably within one school day, the Principal must inform the Trust Leadership (who will contact Trustees) and LA of;

- all permanent exclusions (if the pupil resides in another authority, the home LA should also be informed);
- exclusions that would take the termly total to more than five days;
- exclusions that would result in the pupil missing a public examination.

All other exclusions should be notified termly. In Oldham, all schools and academies report exclusions by sending copies of the letters sent to parents and the DFE data sheet to Targeted Services on a weekly basis. These are entered on to a central pupil database at the LA. Schools must keep a record of all exclusions for reporting to the DFE Census.

Registers

Pupils should be marked as code E during a period of exclusion. Other codes may be used if alternative provision has been made. Schools can discuss this with the Education Attendance Service.

Pupils who have been permanently excluded should not be deleted from the school roll until the independent review panel process is completed, or the deadline for review is reached. In Oldham, the LA will inform the school in writing when an exclusion has reached its effective date and the pupil can be removed from the school roll.

Education provision for excluded pupils

The school's obligation to provide education continues while the pupil is on roll. In all cases of exclusion work should be set from day one and marked.

Where a pupil is given a fixed period exclusion of six school days or longer, the school must provide full time educational provision from and including the sixth day of exclusion. This should be day 1 where possible for pupils with SEN and looked after children.

During the initial period of up to five school days, the parents are solely responsible for the child and must ensure that he/she is not present in a public place during normal school hours without reasonable justification.

From the sixth day of a permanent exclusion, the home LA is statutorily responsible for ensuring that suitable full time education is provided. Schools must ensure that the LA is notified on day one of any permanent exclusion (all schools to complete the Permanent Exclusion notification form – Part 1).

Trustee meetings

Details of requirements for trustees to review exclusions are in section 5 of this handbook. If a meeting is to be held, the Principal should prepare all supporting papers for the exclusion and pass them to the clerk for circulation to all parties at least five days in advance of the meeting. The Principal's case for exclusion form (Part 2) should be completed. Other relevant paperwork should include;

- a copy of the exclusion letter of notification to parent;
- attendance records;
- witness statements (signed where possible and dated);
- excluded pupil statement;
- School Discipline / Behaviour Policy, and other relevant policies;
- Pastoral Support Programme – or Individual Education Plan with clearly identified behaviour targets;
- Information from LA services;
- Records of interventions;
- Details of any alternative or enhanced curriculum.

Reintegration interviews

Reintegration interviews are no longer mandatory but are good practice.

A fixed period exclusion must not be extended if such an interview cannot be arranged in time or the parents do not attend. Pupils have a right to return to school as soon as the period of fixed term exclusion ends.

General Advice

Section 5 – Responsibilities of the Board of Trustees

The Board of Trustees must by law, review certain exclusions and must consider any representations about an exclusion made by the parents of the excluded pupil. The Board of Trustees can delegate some or all of its functions in respect of exclusions to a committee consisting of at least three trustees and such a committee may be called the Discipline Committee.

The Board of Trustees role is to review exclusions imposed by the Principal. The Board of Trustees can uphold an exclusion, or direct reinstatement immediately or by a particular date. A period of fixed term exclusion cannot be extended or be substituted with a permanent exclusion.

The Discipline Committee, which meets to consider any exclusion must be made up of at least three trustees, none of whom have any connection with the pupil or incident that would affect their ability to act impartially. The Chair has the casting vote in all cases where an even number of trustees are considering the case.

The trustees should appoint a clerk to the Discipline Committee to handle the administrative arrangements. The Clerk's responsibilities are described in Section 6 of this handbook.

When a meeting should take place

The Discipline Committee of the Board of Trustees has a duty to meet within 15 school days and consider each exclusion if;

- the exclusion is permanent;
- it is a fixed period exclusion which would bring the pupil's total number of school days of exclusion to more than 15 in a term; or
- it would result in a pupil missing a public examination or national curriculum test*.

* The Board of Trustees should make all efforts to hold the meeting before the exam/test, but if this is not possible the Chair of Trustees can consider the exclusion independently and decide whether or not to reinstate the pupil. Parents still have the right to make representations.

If requested to do so by the parents, the Board of Trustees must meet and consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion if a pupil would be excluded from school for more than 5 school days, but not more than 15, in a single term.

In the case of one or more fixed term exclusions totalling 5 days or less in a school term, the Board of Trustees Disciplinary Committee must consider any written representations from the parent. They cannot direct reinstatement in this case.

In all exclusion cases, the Board of Trustees should comply with the statutory time limits, but are not relieved of their obligation to carry out the relevant duty if they fail to do so. Accordingly, their decision will not be invalid simply on the grounds that it was made out of time.

Prior to the meeting

The Board of Trustees should invite the parent, Principal and the LA* to the meeting, at a time and place convenient to all parties. The parent can be accompanied by a friend or legal representative at their request.

* In the case of Academies, a parent may invite an LA Representative to attend the meeting as an observer but representations can only be made by the LA with the consent of the Academy's Board of Trustees.

The pupil is also entitled to attend the meeting, and should be encouraged to participate, taking into account their age and understanding.

- Any written statements should be requested prior to the meeting. These should be circulated to all parties at least five days in advance of the meeting, along with a list of those who will be present at the meeting.

Trustees should familiarise themselves with the DFE Exclusion Guidance, read all the paperwork and prepare relevant questions to assist them in making a decision.

Procedure for the meeting

A suggested procedure for the meeting can be found in Section 7 of this handbook. The meeting should be conducted in line with guidance on natural justice;

- the Principal and parents should all enter the room together, at the invitation of the Committee, at the beginning of the meeting;
- parents must not receive any impression that the Principal and Committee have discussed the exclusion prior to all parties being invited into the meeting;
- all parties, except the Committee and the clerk, should be asked to leave the room before the Committee discuss their views and make a decision.

Following this procedure ensures that all parties have an opportunity to present their views and ask questions. At the meeting, the trustees should consider;

- any representations made by the parent & the pupil;
- whether the Principal has complied with the exclusion procedure and has had regard to the Secretary of State's Guidance on Exclusion;
- on the balance of probabilities, has the pupil done what they are accused of;
- has there been a serious breach of the School's Discipline Policy. (Other policies may be relevant and should be taken into account);

and

- would allowing the pupil to return harm the education / welfare of themselves or others;

and, in most cases,

- that a wide range of possible strategies to improve a pupil's behaviour were tried and have failed. Strategies could include the use of a Pastoral Support Programme

Trustees should have particular regard to:

- the needs of children with Special Educational Needs and those with disabilities (refer to the Equality Act 2010);
- the needs of Looked After Children.

Board of Trustees' decision

A checklist for trustees is available in section 11 of this policy.

The Board of Trustees must inform the parent, Principal and the LA of their decision, in writing without delay, preferably within one school day of the meeting, stating their reasons. Where the pupil resides in a different LA, they must also inform the pupil's 'home' LA.

A note of the Board of Trustees' views on the exclusion should be placed on the pupil's school record with copies of relevant papers.

If the Committee directs reinstatement, this should take place as soon as possible. No conditions can be attached to any direction to reinstate the pupil.

Where the Board of Trustees upholds a permanent exclusion, there are specific requirements for what information should be included in the letter to parents. The relevant details for Oldham LA have been inserted into the model letters provided by the DFE, a copy of which can be found in Section 12 of this policy.

SECTION 6 - ROLE OF THE CLERK TO THE TRUSTEES' DISCIPLINE COMMITTEE.

Background

The Discipline Committee may appoint a clerk. The clerk must not be a member of the Board of Trustees or the Principal of the academy.

The role of the clerk is to handle the administrative arrangements for considering exclusions. The clerk should not have taught the pupil or been involved in any of the incidents involved in the case, and should not contribute to the meeting other than in an administrative capacity.

2. Before the Meeting

When the Principal notifies the trustees/clerk that s/he has excluded a pupil for more than five days, the clerk should;

- ensure that the Principal's letter of notification has been sent to all relevant parties and that any further information is being prepared;
- set up a meeting of the Discipline Committee within the timescales (allowing two days for receipt of notification) and formally invite the parents and Principal to the meeting at a time and place convenient to all parties;
- obtain written information/statements and circulate to all parties at least five days in advance of the meeting, along with a list of those who will be attending and a copy of the procedure for the meeting (A suggested procedure can be found in section 7 of this policy).

3. At the meeting

The Clerk should;

- ensure that the trustees have all of the information they require, and that they have appointed a Chair for the meeting;
- invite all other parties in to the meeting at the same time, when the trustees have indicated they are ready to begin;
- prepare a written record of the meeting;
- stay with the Committee to help them with reference to his/her notes of evidence and in wording their decision;
- record the Discipline Committee's decision and reasons for it.

4. After the Meeting

The Clerk should;

- inform the parent, the Principal and the LA of the decision, in writing without delay, preferably within one school day of the meeting, stating the reasons for the decision. Where the pupil resides in a different LA, they must also inform the pupil's 'home' LA;
- a note of the Board of Trustees' views on the exclusion should be placed on the pupil's school record with copies of relevant papers;
- where the Board of Trustees upholds a permanent exclusion, there are specific requirements for what information should be included in the letter to parents. The relevant details for Oldham LA have been inserted into the model letters provided by the DFE, a copy of which can be found in Section 12 of this policy.

SECTION 7 - PROCEDURE FOR TRUSTEES' MEETING

1. Before the Meeting

- 1.1 Election of Chair for meeting (usually the Chair of the Discipline Committee).
- 1.2 Confirm arrangements for a clerk to record the meeting (should not take any part in the proceedings).

2. During the Meeting

- 2.1 Introductions
- 2.2 The Chair should:
 - 2.2.1 explain the purpose of the meeting, which will be: to hear any representations the parents may wish to make; and for the trustees to consider whether or not to uphold the exclusion.
 - 2.2.2 circulate copies of this procedure; and
 - 2.2.3 go through the procedure for the meeting as outlined below.
- 2.3 A decision will be made whether or not to include the pupil. The involvement of the pupil in the meeting should be encouraged, unless there are strong reasons for this not to happen.

The Principal's Case for Exclusion:

- 2.4 The Principal will be invited to explain what has happened to lead to his/her decision to exclude the pupil and summarise his/her reasons for it. He/she may ask other relevant colleagues to help explain what has happened.

Questions to the Principal from the Parents:

- 2.5 The parents and/or friend will be given the opportunity to ask questions of the Principal and his/her colleagues.

Questions to the Principal from the Trustees:

- 2.6 The trustees will be given the opportunity to ask questions of the Principal and his/her colleagues.

The Parents' Representations/Views:

- 2.7 The parents, pupil and/or friend will be invited to present their views concerning the exclusion and any other related matters.

Questions to the Parents from the Principal:

- 2.8 The Principal will be given the opportunity to ask questions of the parents, pupil and/or friend.

Questions to the Parents from the Trustees:

2.9 The trustees will be given the opportunity to ask questions of the parents, pupil and/or friend.

Any other questions

Summary by the Principal of the case for exclusion

Summary by the parents of their representations/views

3. At the end of the Representations Stage of the Meeting

3.1 The Chair should explain:

3.1.1 that there are two possible outcomes from this meeting:

- (a) that the trustees direct the Principal to **reinstate** the pupil; or
- (b) that the trustees **uphold** the Principal's decision to exclude the pupil;

3.1.2 that the trustees will be the only people involved in the decision making for this meeting.

3.1.3 that the trustees' decision will be communicated to the parents, Principal and the Local Authority in writing without delay, preferably within one school day of the meeting and, if applicable, that the trustees would be prepared to make their decision known verbally prior to this;

3.1.4 that everyone but the trustees and the clerk to the committee will now be asked to withdraw.

4. Making the Decision

4.1 The Principal and the parent may be invited back into the meeting to offer further information and/or clarification. All parties should be invited in together.

4.2 The trustees may find completing the Trustees' Checklist (section 12 in this handbook) useful, in order to determine whether the Principal has complied with all of the necessary procedural requirements.

4.3 Having completed the Trustees' Checklist, the trustees should then make their decision and record their reasons for their decision.

4.4 The trustees should ensure that the necessary arrangements are made to inform parents, the Principal and the Local Authority without delay, preferably within one school day.

SECTION 8 - ROLE OF THE LA

1. General

The LA does not have a decision-making role in the exclusion process for any school.

It is the Board of Trustees, which has a duty to review the Principal's decision to exclude.

2. Attendance at Trustees' Discipline Committee Meetings

The LA, if the Board of Trustees see fit, may be invited to Trustees' Discipline Committee Meetings, which are convened to consider:

- the latest exclusion, where the total number of school days lost in a term would exceed 15 for an individual pupil;
- an exclusion which would cause a pupil to miss a public examination; or
- a permanent exclusion.

The committee may ask the LA for specific technical advice on the procedure.

3. Education of excluded pupils

The LA is required to arrange full time educational provision for permanently excluded pupils from the 6th day of a permanent exclusion. Once a Principal has decided to permanently exclude a pupil, the LA will arrange to assess the pupil's needs and how to meet them (even though the exclusion might still be overturned by trustees). If the exclusions process reaches the effective date, the pupil's name will be deleted from the school roll and it will be the responsibility of the LA to offer an alternative school place.

4. Help and Support

The LA remains committed to helping and supporting Principals, trustees, academy trusts and parents throughout the exclusion process. Please telephone Targeted Services on 0161 770 5179/3158, at any stage of the exclusion process.

The LA can provide both school specific and general training sessions for trustees and their discipline committees to help them to discharge their functions effectively.

5. Independent Review Panels

The Academy Trust must arrange the independent review panel (an SLA may be in force where these services can be purchased from the LA).

SECTION 9 - INDEPENDENT REVIEW PANELS

Part 8 of the DFE Exclusion Guidance refers to Independent Review Panels.

Notifying parents

When a permanent exclusion is upheld by the Trustees Discipline Committee, the Committee's decision letter to the parent must state the reasons for the decision, give the last day for lodging a review (within 15 school days) and explain that the grounds for the review should be set out in writing. The Clerk should also write to the parent (or pupil) within 3 working days indicating the latest date by which a review may be lodged, the name and contact details for the clerk to the review panel, and explain that the request for an independent review panel must be in writing setting out the grounds on which it is made. If a parent does not request a review within the timescales the Academy Trust must reject the application.

The timing of the hearing

An independent review panel must meet to consider an exclusion no later than the 15th school day after the day on which the review was requested. However, if necessary, the panel may then decide to adjourn the hearing.

Composition of independent review panels

Review Panels must consist of 3 or 5 members. One must be a lay member (can be an ex-governor), one must be a Principal or was one within the last 5 years (two for panels of 5), and one must be a governor who has served for 12 consecutive months in the last 5 years (two for panels of 5).

The Academy Trust must constitute the independent review panel, may appoint a clerk and ensure that all panel members and clerks receive suitable training. Please see Section 8 of the DFE Guidance on Exclusions.

Role of the clerk

The clerk, if appointed, provides an independent source of advice on procedures for all parties. Their role and training requirements can be found in section 8.3 of the DFE Guidance on Exclusions.

In advance of the independent review panel

The Trust must take reasonable steps to find out when the parent and others entitled to attend the hearing would be available in order to ensure that all parties are able to attend. They must also arrange a suitable venue for hearing the independent review panel.

The following are entitled to make written representations, appear and make oral representations, and to be represented (including legally);

the parent (or, if aged over 18, the pupil);

- the Principal;
- the Board of Trustees;
- the LA;
- the SEN Expert.

The pupil is also entitled to attend the review, but if not attending then their views can be presented through a representative or by written statement.

The clerk should circulate all written evidence to all parties at least 5 working days before the hearing, including information about the parties attending.

Request for a SEN Expert (see DFE Exclusion Guidance)

If requested by the parents, the Academy Trust must appoint a SEN Expert to attend the independent review panel.

Parents have a right to the above, regardless of whether their child has recognised or identified SEN.

SEN Experts could include specialist SEN teachers, educational psychologists, School SENCO's and behaviour support teachers.

The SEN Experts role is to provide impartial advice to the independent review panel on how special educational needs may be relevant to the exclusion. Including whether school policies in relation to SEN were legally reasonable and procedurally fair, whether the school acted in a legal, reasonable and procedurally fair way with regards to identification of SEN and any contribution that this could have made to the circumstances of the pupils exclusion.

The SEN Expert's role does not include making an assessment of the pupil's special educational needs.

Conduct and role of the independent review panel

It is for the independent review panel to decide how to conduct the proceedings, which should be reasonably formal so that all parties can present their case effectively. The meeting should take a similar form to that of the Governor's Discipline Committee meeting. A copy of that procedure is in section 7 of this policy.

The role of the panel is to review the Board of Trustees' decision not to reinstate a permanently excluded pupil. The panel must take account of the circumstances of the excluded pupil and all others in the school. The panel must apply the civil standard of proof (the balance of probabilities).

Reaching a decision

Information on what the panel should consider when coming to their decision can be found in the DFE Guidance on exclusions.

The decision

An independent review panel can decide to;

- uphold the exclusion decision;
- recommend that the Board of Trustees reconsiders their decision; or
- quash the decision and direct that the Board of Trustees considers the exclusion again.

The panel's decision does not have to be unanimous and can be decided by a majority vote. The Panel can request that a copy of the decision letter is placed on the pupil's record and the school must comply with this request.

The panel may only quash a decision and direct reconsideration where it considers that the exclusion was flawed when considered in the light of the principles applicable on an application for judicial review; illegality, irrationality and procedural impropriety.

Financial Penalties

Where a panel directs a Board of Trustees to reconsider an exclusion it has the power to order that a readjustment of the school/academy budget be made if the Board of Trustees does not offer to reinstate the pupil within 10 school days of receiving notification. The sum of this adjustment must be £4000, payable within 28 days, and will be in addition to other monies that follow permanently excluded pupils.

Reconvening a Trustee Discipline Committee

If the independent review panel directs or recommends that the Board of Trustees reconsider the exclusion, this must be done within 10 school days of notification.

Where a Board of Trustees has reconsidered an exclusion decision it must inform the relevant person, the Principal and the LA of its reconsidered decision and the reasons for it without delay. A Board of Trustees must comply with any direction from the review panel with respect to placing a note on the pupil's record.

After the independent review panel

The independent review panel is independent. Its decision is binding on the parent, the Board of Trustees, the Principal and the Trust. The panel cannot revisit its decision once made.

The panel must let all parties know its decision without delay. The decision letter should give the panel's reasons for its decision in sufficient detail for the parties to understand why the decision was made.

If the independent review panel upholds the permanent exclusion, the clerk should immediately report this to the LA. If the pupil is of compulsory school age, it is for the LA in whose area the pupil lives to make arrangements as quickly as possible for the pupil to continue in suitable full-time education. If the pupil lives outside the area of the LA, the clerk should make sure that the home LA is also informed immediately of the position.

Where the exclusion is upheld the clerk should also advise the parent to contact the appropriate person at the home LA about arrangements for their child's continuing education. The Principal should remove the pupil's name from the school roll the day after the conclusion of the independent review panel.

Remedies after the independent review panel

Complaint to the Secretary of State

A parent can make a complaint to the Secretary of State via the Education Funding Agency at the Department for Education.

Judicial review

Decisions of both governing bodies and independent review panels can be subject to judicial review.

Claims of Discrimination in relation to exclusion

Parents can also apply to the First-tier tribunal to hear cases of alleged disability discrimination, in addition to their current right to apply to a County Court to hear other cases of discrimination under the Equality Act 2010. The First-tier Tribunal will be able to direct reinstatement.

SECTION 10 - Exclusion Record Form

Meeting held with Trustees' Discipline Committee

Academy: _____

Date of Meeting: _____

Name of Child: _____

Type of exclusion: Fixed term
(Please delete as appropriate) Permanent (serious breach/persistent breaches)

Date of letter notifying parents of exclusion: _____

Date any further information sent to parents: _____

Did parents indicate they wished to make representations?

Yes

No

No reply

List of Attendees:

The information, which has been sent out from the school, to explain the reasons for the decision to exclude, should be appended to this form.

Following the Principals case for exclusion any additional information gained following questions from:

Parents and/or friend:

Trustees:

The parents, pupil and/or friend will be invited to present their views concerning the exclusion and any other related matters. Any written information/representations received from parents should be appended to this form.

Following the parents case any additional information gained following questions from:

Principal:

Trustees:

Summary by the Principal of the case for exclusion:

Summary by the parents of their representations/views:

Record filled in by: _____

(Clerk to the Trustees' Discipline Committee)
TRUSTEES' DECISION SHEET

(To be completed by the trustees when their decision is made)

Decision of trustees:

To direct the Principal to reinstate the pupil

To uphold the fixed term / permanent* exclusion of the pupil
(*delete as appropriate)

Reasons for the decision made:

The original of this form must be completed and, with any additional information, sent to parents without delay, preferably within 1 school day of the date of this meeting.

Copies of the form should be:

- a) retained by the school;
- b) sent to: Targeted Services at the Civic Centre.

Signed: _____ (Chair of meeting)

Date: _____

N B Any reference of this form to parents includes all those with parental responsibility. This may be particularly applicable to Children in Public Care.

SECTION 11 – TRUSTEE CHECKLIST

Guidance checklist for the discipline committee meeting				
Pupil Name:	Date of Meeting:			
1	Notification of Exclusion: Telephone call/visit on: (date) Letter of notification sent on: (date) Copied and sent to LA and Trustees on: (date)			
2	All necessary information included in the letter: <table style="width: 100%; border: none;"> <tr> <td style="width: 80%;"></td> <td style="width: 10%; text-align: center;">Yes</td> <td style="width: 10%; text-align: center;">No</td> </tr> </table>		Yes	No
	Yes	No		
	Reason for exclusion given			
	Arrangements for continued education outlined			
	Parents’ rights to make representation made			
	Contact point for parents if representations made			
	Latest date for representations from parents included			
	Parents’ right to see pupil’s school record included			
	Type of exclusion clearly identified			
	Length of fixed period exclusion including date and time of return			
	Arrangements for free school meals if lunch-time exclusion			
	Date the exclusion is to take effect			
	LA contact number			

	Relevant sources of free and impartial advice		
3	Date of Discipline Committee Meeting: Within 15 school days from Principal's letter, for permanent and fixed period exclusions of more than 15 school days	Yes	No
	Within 50 school days from Principal's letter, for fixed period exclusions of less than 15 school days		
4	All written statements/evidence circulated in advance of this meeting (at least 5 working days before)	Yes	No
5	Procedure for the meeting and confirmation circulated in advance of the meeting		
6	All relevant information provided on pupil	Yes	No
	Name		
	Age including Year Group		
	Gender		
	Ethnicity		
	SEN Status		
	Care status if looked after or active case for Social Care		
	Academic Progress		
7	Evidence presented by the Head teacher, satisfactory in relation to: The investigation conducted	Yes	No
	Firm evidence collected to support decision to exclude		
	Pupil has been given the opportunity to give his/her version of events		
	Provocation/harassment has been taken into account, if appropriate		
	Range of strategies tried and failed		
	No more strategies being available		

	Any SEN taken into account
	Decision is consistent with other similar incidents
	Serious breach of school's discipline policy
	Requirements of discrimination (under the Equality Act 2010) have been considered
8	Parent has been given adequate time to make representations
9	LA has been given adequate time to make representations
10	All parties to the meeting know how this decision will be communicated
11	Satisfactory arrangements in place for pupil to continue their education during exclusion
12	Has the DFE Exclusion Guidance been followed? <i>If no, what concerns exist?</i>
13	To be completed after trustees' Discipline Committee Meeting - Parent, Head teacher and LA notified of decision on: (date) Letter regarding decision sent out on: (date) Signed: Date:

SECTION 12 – MODEL LETTERS

Model Letter 1

From Principal notifying parent of a fixed period exclusion of 5 school days or fewer in one term, and where a public examination is not missed

Dear [parent's name]

I am writing to inform you of my decision to exclude **[child's name]** for a fixed period of **[specify period]**. This means that he/she will not be allowed in school for this period. The exclusion begins/began on **[date]** and ends on **[date]**.

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude **[child's name]** has not been taken lightly. **[child's name]** has been excluded for this fixed period because **[reason for exclusion]**.

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

We will set work for **[name of child]** to be completed on the days specified in the previous paragraph **[detail the arrangements for this]**. Please ensure that work set by the school is completed and returned to us promptly for marking.

[School] You have the right to make written representations about this decision to the Board of Trustees. If you wish to make representations please contact **[name of contact]** on/at **[contact details — address, phone number, email]**, as soon as possible. Whilst the Board of Trustees has no power to direct reinstatement, they must consider any representations you make and may place a copy of their findings on your child's school record.

[PRU] You have the right to make written representations to the Local Authority about this decision. A panel of Local Authority Officers will consider these representations. If you wish to make representations please contact Targeted Services on 0161 770 5179/3158 as soon as possible.

Excluded pupils should be enabled and encouraged to participate at all stages of the exclusion process, taking in to account their age and understanding.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to make a claim to the First-tier Tribunal - <http://www.justice.gov.uk/tribunals/send/appeals>

You and your child are requested to attend a reintegration interview with me on **[date]** at **[time]**. The purpose of the reintegration interview is to discuss how best your child's return to school can be managed.

You also have the right to see a copy of **[name of child]**'s school record. Due to confidentiality restrictions, you will need to notify me in writing if you wish to be supplied with a copy of **[name**

of child]'s school record. I will be happy to supply you with a copy if you request it. There may be a charge for photocopying.

You may wish to contact Oldham Council, Civic Centre, West Street, Oldham, OL1 1XJ, telephone: 0161 770 5179, email: school.exclusions@oldham.gov.uk, who can provide advice. You may also find it useful to contact Oldham SEND Information Advice Support Service (Parent Partnership) 0161 667 2055, the Advisory Centre for Education (ACE), www.ace-ed.org.uk and the Children's Legal Centre, 08088 020 008, <http://www.childrenslegalcentre.com>

Statutory guidance on exclusion from school can be found at <https://consumption.education.gov.uk/publications>

[name of child]'s exclusion expires on **[date]** and we expect **[name of child]** to be back in school on **[date]** at **[time]**.

Yours sincerely

[name]
Principal

From Principal notifying parent of a fixed period exclusion of more than 5 and up to and including 15 school days in total in one term, or where a public examination would be missed

Dear **[parent's name]**

I am writing to inform you of my decision to exclude **[child's name]** for a fixed period of **[period]**. This means that **[child's name]** will not be allowed in school for this period. The exclusion begins/began on **[date]** and ends on **[date]**.

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude **[child's name]** has not been taken lightly. **[child's name]** has been excluded for this fixed period because **[reason for exclusion]**.

You have a duty to ensure that your child is not present in a public place in school hours during the first 5 days of this exclusion, that is on **[specify dates]** unless there is reasonable justification for this. I must warn you that you may be prosecuted or receive a penalty notice from the Local Authority if your child is present in a public place during school hours on the specified dates. If so, it will be for you to show reasonable justification.

We will set work for **[name of child]** to be completed during the first 5 days of this exclusion **[detail the arrangements for this]**. Please ensure that work set by the school is completed and returned to us promptly for marking.

From the 6th day of this exclusion **[specify date]** until the expiry of the exclusion, we will provide suitable full time education. On **[date]** he/she should attend at **[name and address of alternative provider if not home school]** at **[time]** and report to **[staff member's name]**. **[School]**.

You have the right to request a meeting of the schools discipline committee to whom you may make representations, and my decision to exclude can be reviewed. As the period of this exclusion is more than 5 school days in a term the discipline committee must meet if you request it to do so. The latest date by which the discipline committee can meet, if you request a meeting is **[specify date — no later than the 50th school day after the date on which the discipline committee were notified of this exclusion]**.

[School] If you wish to make representations to the discipline committee, and wish to be accompanied by a friend or representative please contact **[name of contact]** on/at **[contact details — address, phone number, e-mail]**, as soon as possible. Please advise if you have a disability or special needs which would affect your ability to attend or take part in a meeting at the school. Also, please inform **[contact]** if it would be helpful for you to have an interpreter present at the meeting.

[PRU] You have the right to make representations to the Local Authority about this decision. A panel of Local Authority Officers will meet if you request them to do so to consider these representations. If you wish to make representations please contact Targeted Services on 0161 770 5179/3158 as soon as possible.

Excluded pupils should be enabled and encouraged to participate at all stages of the exclusion process, taking in to account their age and understanding.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to make a claim to the First-tier Tribunal - <http://www.justice.gov.uk/tribunals/send/appeals>

You and your child are requested to attend a reintegration interview with me on **[date]** at **[time]**. The purpose of the reintegration interview is to discuss how best your child's return to school can be managed.

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

You may wish to contact Oldham Council, Civic Centre, West Street, Oldham, OL1 1XJ, telephone: 0161 770 5179, email: school.exclusions@oldham.gov.uk, who can provide advice. You may also find it useful to contact Oldham SEND Information Advice Support Service (Parent Partnership) 0161 667 2055, the Advisory Centre for Education (ACE), www.ace-ed.org.uk and the Children's Legal Centre, 08088 020 008, <http://www.childrenslegalcentre.com>

Statutory guidance on exclusion from school can be found at <https://consumption.education.gov.uk/publications>

[name of child]'s exclusion expires on **[date]** and we expect **[name of child]** to be back in school on **[date]** at **[time]**.

Yours sincerely

[name]
Principal

From Principal notifying parent of a fixed period exclusion of more than 15 school days in total in one term

Dear **[parent's name]**

I am writing to inform you of my decision to exclude **[child's name]** for a fixed period of **[period]**. This means that **[child's name]** will not be allowed in school for this period. The exclusion begins/began on **[date]** and ends on **[date]**.

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude **[child's name]** has not been taken lightly. **[child's name]** has been excluded for this fixed period because **[reason for exclusion]**.

You have a duty to ensure that your child is not present in a public place in school hours during the first 5 days of this exclusion, that is on **[specify dates]** unless there is reasonable justification for this. I must warn you that you may be prosecuted or receive a penalty notice from the Local Authority if your child is present in a public place during school hours on the specified dates. If so, it will be for you to show reasonable justification.

We will set work for **[name of child]** to be completed during the first 5 days of this exclusion **[detail the arrangements for this]**. Please ensure that work set by the school is completed and returned to us promptly for marking.

From the 6th day of this exclusion **[specify date]** until the expiry of the exclusion, we will provide suitable full time education. On **[date]** he/she should attend at **[name and address of alternative provider if not home school]** at **[time]** and report to **[staff member's name]**. **[School]**.

As the length of the exclusion is more than 15 school days in total in one term the Board of Trustees must meet to consider the exclusion. At the review meeting you may make representations to the Board of Trustees if you wish. The latest date on which the Board of Trustees can meet is **[date here — no later than 15 school days from the date the Board of Trustees is notified]**. If you wish to make representations to the Board of Trustees and wish to be accompanied by a friend or representative please contact **[name of contact] on/at [contact details — address, phone number, e-mail]**, as soon as possible. You will, whether you choose to make representations or not, be notified by the clerk to the Board of Trustees of the time, date and location of the meeting. Please advise if you have a disability or special needs which would affect your ability to attend or take part in a meeting at the school. Also, please inform **[contact]** if it would be helpful for you to have an interpreter present at the meeting.

[PRU] As the length of the exclusion is more than 15 days, Oldham Local Authority must consider the exclusion. A panel of Local Authority Officers will consider the exclusion. A review meeting will be held and at that meeting you may make representations if you wish. If you wish to make representations to the LA and wish to be accompanied by a friend or representative please contact Targeted Services on 0161 770 5179/3158 at the Civic Centre, as soon as possible. Please advise if you have a disability or special needs which would affect your ability to attend or take part in a meeting at the school. Also, please inform Targeted Services if it would be helpful for you to have an interpreter present at the meeting.

Excluded pupils should be enabled and encouraged to participate at all stages of the exclusion process, taking in to account their age and understanding.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to make a claim to the First-tier Tribunal - <http://www.justice.gov.uk/tribunals/send/appeals>

You and your child are requested to attend a reintegration interview with me on **[date]** at **[time]**. The purpose of the reintegration interview is to discuss how best your child's return to school can be managed.

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

You may wish to contact Oldham Council, Civic Centre, West Street, Oldham, OL1 1XJ, telephone: 0161 770 3353, email: school.exclusions@oldham.gov.uk, who can provide advice. You may also find it useful to contact Oldham SEND Information Advice Support Service (Parent Partnership) 0161 667 2055, the Advisory Centre for Education (ACE), www.ace-ed.org.uk and the Children's Legal Centre, 08088 020 008, <http://www.childrenslegalcentre.com>

Statutory guidance on exclusion from school can be found at <https://consumption.education.gov.uk/publications>

[name of child]'s exclusion expires on **[date]** and we expect **[name of child]** to be back in school on **[date]** at **[time]**.

Yours sincerely

[name]
Principal

From Principal notifying parent of a permanent exclusion

Dear **[parent's name]**

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 back to this school pending a meeting of the discipline committee.

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude **[child's name]** has not been taken lightly. **[child's name]** has been excluded permanently because **[reason for exclusion — serious breach (one off incident) or persistent breaches of the school's behaviour policy - also include any other relevant previous history here]**.

You have a duty to ensure that your child is not present in a public place in school hours during the first 5 days of this exclusion, that is on **[specify dates]** unless there is reasonable justification for this. I must warn you that you may be prosecuted or receive a penalty notice from the Local Authority if your child is present in a public place during school hours on the specified dates. If so, it will be for you to show reasonable justification.

Alternative arrangements for **[child's name]** education to continue will be made. For the first five days of this exclusion we will set work for him/her and would ask you to ensure this work is completed and returned promptly to school for marking. From the 6th day of the exclusion onwards **[specify date]** the Local Authority in which you reside will provide suitable full time education. I have also today informed Targeted Services, Oldham of your child's exclusion and they will be in touch with you about arrangements for his/her education from the 6th school day of exclusion. You can contact them on 0161 770 5179.

[School] As this is a permanent exclusion the Board of Trustees must meet to consider it. At the meeting you may make representations to the Board of Trustees if you wish and ask them to reinstate your child. The Board of Trustees have 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 request an independent review panel to review their decision. The latest date on which the Board of Trustees can meet is **[specify date — no later than 15 school days from the date the Board of Trustees is notified]**. If you wish to make representations to the Board of Trustees and wish to be accompanied by a friend or representative please contact **[name of contact]** on/at **[contact details — address, phone number, e-mail]**, as soon as possible. You will, whether you choose to make representations or not, be notified by the clerk to the Board of Trustees of the time, date and location of the meeting. Please advise if you have a disability or special needs which would affect your ability to attend or take part in the meeting. Also, please inform **[contact]** if it would be helpful for you to have an interpreter present at the meeting.

[PRU] You have the right to request an independent review panel to reconsider the exclusion. If you wish to request a review please notify the Clerk to the Review Panel of your wish in writing to Constitutional Services, Level 4, Civic Centre, West Street, Oldham, OL1 1UL by no later than **[specify date — no later than 15 school days from the date the letter is posted, allowing 2 school days for receipt of letter]**. If you have not lodged a request for an independent review panel by this date your right will lapse. Please advise if you have a disability or special needs which would affect your ability to attend or take part in the meeting. Also, please inform Constitutional Services if it would be helpful for you to have an interpreter present at the meeting.

Excluded pupils should be enabled and encouraged to participate at all stages of the exclusion process, taking in to account their age and understanding.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to make a claim to the First-tier Tribunal - <http://www.justice.gov.uk/tribunals/send/appeals>

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

You may wish to contact Oldham Council, Civic Centre, West Street, Oldham, OL1 1XJ, telephone: 0161 770 5179, email: school.exclusions@oldham.gov.uk, who can provide advice. You may also find it useful to contact Oldham SEND Information Advice Support Service (Parent Partnership) 0161 667 2055, the Advisory Centre for Education (ACE), www.ace-ed.org.uk and the Children's Legal Centre, 08088 020 008, <http://www.childrenslegalcentre.com>

Statutory guidance on exclusion from school can be found at <https://consumption.education.gov.uk/publications>

Yours sincerely

[name]
Principal

From the clerk to the Board of Trustees to the parent of a permanently excluded pupil upholding a permanent exclusion

Dear **[parent's name]**

The meeting of the Board of Trustees at **[school]** on **[date]** considered the decision by **[Principal]** to permanently exclude your son/daughter **[name of pupil]**. The Board of Trustees, after carefully considering the representations made and all the available evidence, have decided to uphold **[name of pupil]**'s permanent exclusion.

The reasons for the Board of Trustees's decision are as follows: **[give the reasons in as much detail as possible, explaining how they were arrived at]**. Please see enclosed the minutes from the meeting.

You have the right to request an independent review panel to reconsider the exclusion. If you wish to do so, please notify the Clerk to the Independent Review Panel. You must set out the reasons for your request in writing, and send this request to Constitutional Services, Level 4, Civic Centre, West Street, Oldham, OL1 1UL by no later than **[specify the latest date — no later than 15 school days from the date the letter is posted, allowing 2 school days for receipt of letter]**. If you have not lodged a request for an independent review panel by **[repeat latest date]**, your right will lapse. Please advise if you have a disability or special needs which would affect your ability to attend the hearing. Also, please inform the Clerk to the Appeal Panel if it would be helpful for you to have an interpreter present at the hearing.

Your request would be heard by an Independent Review Panel. A three or five member panel will comprise one serving, or recently retired (within the last 5 years), Principal, one serving, or recently serving, experienced governor and one lay member who will be the Chairman. The independent review panel will rehear all the facts of the case — if you have fresh evidence to present to the panel you may do so. The panel must meet no later than the 15th school day after the date on which your request is lodged. In exceptional circumstances panels may adjourn a hearing until a later date.

In determining your request for reconsideration the independent review panel can make one of three decisions: they may uphold your child's exclusion; they may recommend the Board of Trustees reconsiders their decision or quash the decision and direct that the Board of Trustees considers the exclusion again. However, the independent review panel cannot direct your child be reinstated at the school.

You have the right to request an SEN expert to attend the above panel meeting, regardless of whether the excluding school recognises that your child has SEN. Please inform Constitutional Services should you want this.

Excluded pupils should be enabled and encouraged to participate at all stages of the exclusion process, taking in to account their age and understanding.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to make a claim to the First-tier Tribunal – <http://www.justice.gov.uk/tribunals/send/appeals>

I would advise you of the following sources of advice:

Oldham Council, Civic Centre, West Street, Oldham, OL1 1XJ, telephone: 0161 770 5179, email: school.exclusions@oldham.gov.uk, Oldham SEND Information Advice Support Service (Parent Partnership) 0161 667 2055, the Advisory Centre for Education (ACE), www.ace-ed.org.uk and the Children's Legal Centre, 08088 020 008, <http://www.childrenslegalcentre.com>

Statutory guidance on exclusion from school can be found at <https://consumption.education.gov.uk/publications>

The arrangements currently being made for **[pupil's name]**'s education will continue. The LA will shortly send you correspondence and guidance with regards to the Independent Review Panel.

Yours sincerely

[name]

Clerk to the Board of Trustees