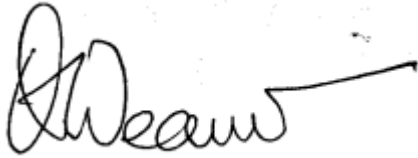




The Thomas Lord Audley School

Suspension & Exclusion Policy

Document Details	
Category:	School Policy
Status:	Approved
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Signed (Chair of Governors):	

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b) Statement of intent

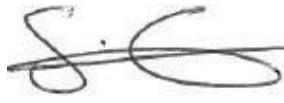
At The Thomas Lord Audley School we understand that good behaviour and discipline is essential for promoting a high-quality of education.

Amongst other disciplinary sanctions, the school recognises that suspension and exclusion of pupils may be necessary where there has been a serious breach, or consistent breaches, of the school's Behaviour Policy. Excluding a pupil may also be required in instances where allowing the pupil to remain in school would be damaging to the education of others; in all cases, suspension and exclusions of pupils should only be used as a means of last resort.

The schools have created this policy to clearly define the legal responsibilities of the headteacher, governing committee and LA when responding to pupil suspensions or exclusions, in order to ensure that they are dealt with both fairly and lawfully, and in line with DfE statutory guidance.

This policy also aims to secure a pupil's right to an education despite having been suspended, by ensuring that appropriate arrangements are in place.

Signed by:



Headteacher,
The Thomas Lord Audley
School

November 2024

Date: _____

Chair of governors

Date: November 2024

1. Legal framework

- 1.1. This policy has due regard to the related statutory legislation, including but not limited to, the following:
- The Education Act 2002 (As amended by The Education Act 2011)
 - The School Discipline (Pupil Exclusions and Reviews) (England) (Amendment and Transitional Provision) Regulations 2023
 - The Education and Inspections Act 2006
 - The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007 (As amended 2014)
 - The European Convention on Human Rights (EHCR)
 - The Equality Act 2010
- 1.2. This policy also has due regard to statutory and non-statutory guidance, including, but not limited to, the following:
- DfE (2023) 'Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement'
 - DfE (2016) 'Behaviour and discipline in schools'
 - DfE (2015) 'Special educational needs and disability code of practice: 0 to 25 years'
- 1.3. This policy will be implemented in conjunction with the following school policies and procedures:
- Behavioural Policy (Expectation, Relationships and Behaviour Policy)
 - Anti-Bullying Policy
 - Pupil Code of Conduct

2. Roles and responsibilities

The LA is responsible for:

- Having due regard to the relevant statutory guidance when carrying out its duties in relation to the education of LAC.
- Arranging suitable full-time education for any pupil of compulsory school age excluded permanently, in coordination with the school.
- Reviewing and reassessing pupils' needs in consultation with their parents where they have an EHC plan and are excluded permanently, with a view to identifying a new placement.

The trust is responsible for:

- Arranging for an independent review panel hearing to review the decision of the Governing Committee not to reinstate a permanently excluded pupil where required.
- Arranging for the independent review panel hearing to be held via remote access where requested by parents or excluded pupils aged 18 and above.

The Governing Committee is responsible for:

- Providing information to the Secretary of State and LA about any suspensions and exclusions within the last 12 months.
- Arranging suitable full-time education for any pupil of compulsory school age who is suspended, where required.
- Considering parents' representations about suspensions and exclusions within 15 school days of receiving notice if the appropriate requirements are met.
- Where a suspension or exclusion would result in a pupil missing a public examination or test, considering the suspension or exclusion before this date.
- Considering whether it would be appropriate for a pupil to be permitted onto the school premises to sit the public examination or test.
- Arranging the representation meeting at a time and date convenient to all parties, but in compliance with the statutory time limits.
- Arranging for the representation meeting to take place via remote access where requested by parents or excluded pupils aged 18 and over.
- Adhering to its responsibilities to consider the reinstatement of pupils.
- Considering the interests and circumstances of the suspended or excluded pupil, including the circumstances in which they were suspended or excluded, and have due regard to the interests of others at the school.
- Using the civil standard of proof (based on the 'balance of probabilities', it is more than likely that the fact is true) when establishing the facts relating to a suspension or exclusion.
- Ensuring clear minutes are taken of the representation meeting.
- Noting the outcome of the representation meeting on the pupil's education record, along with copies of relevant papers for future reference.
- Notifying the pupil's parents, the headteacher and the LA of its decision and the reasons for it, without delay
- Appointing a clerk or if not appointed, the LA will assume responsibility to provide advice to the relevant panel and parties to the review on procedure, law and statutory guidance on suspensions and exclusions.
- Where appropriate, informing parents of where to apply for an independent review panel.
- Informing parents of relevant sources of information.

- Ensuring a pupil's name is removed from the school admissions register, where appropriate.
- Reconvening within 10 school days to reconsider reinstatement of a pupil where directed to do so by the suspensions and exclusions review panel.
- Using data to evaluate the school's practices regarding intervention, suspension and exclusion.

The clerk or LA to the suspensions and exclusions review panel is responsible for:

- Informing the appropriate individuals that they are entitled to:
 - Make written representations to the panel.
 - Attend the hearing and make oral representations to the panel.
 - Be represented.
- Circulating copies of relevant papers at least five school days before the review to all parties.
- Giving all parties details of those attending and their role, once the position is clear.
- Attending the review and ensuring that minutes are produced in accordance with instructions from the panel within the timeframe of the policy.

The headteacher is responsible for:

- Implementing good levels of discipline to ensure all pupils can benefit from the opportunities provided by education and to minimise potential suspensions and exclusions.
- Applying the civil standard of proof when establishing the facts in relation to a suspension or exclusion.
- Complying with their statutory duties in relation to pupils with SEND when administering the suspension or exclusion process, as outlined in the Special Educational Needs and Disabilities (SEND) Policy.
- Considering any contributing factors that are identified after an incident of poor behaviour has occurred, e.g. if a pupil has suffered bereavement, experienced bullying or has a mental health issue.
- Considering the use of a multi-agency assessment for a pupil who demonstrates persistent disruptive behaviour.
- Reviewing the effectiveness of suspensions and exclusions as sanctions, e.g. if a pupil has received multiple suspensions or is approaching the legal limit for suspensions in an academic year.
- Considering what extra support may be needed to identify and address the needs of individual pupils, particularly those with SEND, those eligible for FSM, LAC and those from certain ethnic groups.
- Engaging effectively with parents in supporting the behaviour of pupils with additional needs.
- Determining whether a pupil will be suspended or excluded on disciplinary grounds.
- Adhering to their responsibilities when cancelling an exclusion before the governing committee has met to consider whether the pupil should be reinstated. Withdrawing any suspensions or exclusions that have not been reviewed by the Governing Committee, where appropriate.
- Ensuring any decision to suspend or exclude is lawful, rational, reasonable, fair and proportionate.
- Complying with the requirements of the Equality Act 2010 when deciding whether to suspend or exclude a pupil.

- Ensuring they have considered their legal duty of care when sending a pupil home following a suspension or exclusion.
- Making the decision to suspend or exclude based on the evidence available at the time, regardless of any police investigation and/or criminal proceedings.
- Ensuring a pupil's parents are notified without delay where the decision is taken to suspend or exclude the pupil, including the days on which the parents must ensure the pupil is not present in a public place at any time during school hours, as well as any other necessary information statutorily required.
- Ensuring that all information provided to parents is clear and easily understood.
- Notifying the governor responsible and LA of their decision to exclude a pupil where appropriate, as well as the pupil's home authority if required.
- Notifying the governing committee once per term of any exclusions in the headteacher's report to governors.
- Organising suitable work for excluded pupils where alternative provision cannot be arranged.

3. Grounds for suspension and exclusion

- 3.1. The school will only suspend or exclude a pupil where it is absolutely necessary, and where all other possible disciplinary sanctions, as detailed in the school's Behaviour Policy, have failed to be successful.
- 3.2. The following examples of behaviour may underline the school's decision to suspend or exclude a pupil:

Physical assault against a pupil
Physical assault against an adult
Verbal abuse / threatening behaviour against a pupil
Verbal abuse / threatening behaviour against an adult
Use or threat of use of an offensive weapon
Bullying
Racist abuse
Abuse against sexual orientation and gender identity
Abuse relating to disability
Sexual misconduct
Drug and alcohol related
Damage
Theft
Persistent disruptive behaviour
Inappropriate use of social media or online technology
Wilful and repeated transgression of protective measures in place to protect public health

- 3.3. Pupils can be suspended on a **fixed period basis**, i.e. up to 45 school days within a year, or **permanently excluded**. The law does not allow for extending a suspension or 'converting' a suspension into a permanent exclusion. In exceptional cases, usually where further evidence has come to light, a further suspension may be issued to begin immediately after the

first suspension ends; or a permanent exclusion may be issued to begin immediately after the end of the suspension.

- 3.4. In all cases, the headteacher will decide the suspension period a pupil will be subject to, depending on what the circumstances warrant.

4. The headteacher's power to suspend and exclude

- 4.1. Only the headteacher has the power to suspend and exclude a pupil from the school, and is able to decide whether this is on a fixed period or permanent basis. All suspensions and exclusions will only be issued on disciplinary grounds.
- 4.2. The headteacher is able to exclude pupils from the premises where their behaviour is disruptive during lunchtime. All lunchtime suspensions will be counted as half of a school day.
- 4.3. The headteacher is able to consider a pupil who engages in disruptive behaviour outside of school premises as grounds for suspension and exclusion, in accordance with the school's Behaviour Policy.
- 4.4. Any decision made to exclude a pupil will be lawful, proportionate and fair, with respect to legislation relating directly to suspension and exclusions and the school's wider legal duties, including the European Convention on Human Rights (ECHR).
- 4.5. All suspension and exclusions will be formally recorded.
- 4.6. When sending a pupil home following any suspension, the headteacher will ensure that they exercise their duty of care at all times and will always inform the parents/carers.
- 4.7. The headteacher will apply the civil standard of proof when responding to the facts relating to a suspension or exclusion, i.e. that 'on the balance of probabilities' it is more likely than not that the facts are true.
- 4.8. The headteacher may cancel any suspension or exclusion that has already begun, or one that has not yet begun; however, this power will only be used if the suspension or exclusion has not already been reviewed by the governing committee.
- 4.9. Where a suspension or exclusion is cancelled, the headteacher will notify the pupil's parents, the governing committee, the LA, and, where relevant, the virtual school head (VSH) and the pupil's social worker. The notification will also provide the reason for the cancellation. The headteacher will offer the pupil's parents the opportunity to meet with the headteacher to discuss the circumstances that led to the cancellation of the exclusion, and the pupil will be allowed back into school without delay.
- 4.10. When a suspension or exclusion is cancelled, the Governing Committee's duty to consider reinstatement ceases, and there is no requirement to hold a meeting to consider reinstatement

- 4.11. Any days spent out of school as a result of a suspension or exclusion prior to it being cancelled will count towards the maximum 45 school days that a pupil can be suspended or excluded in an academic year. A permanent exclusion will not be cancelled if the pupil has already been suspended or excluded for more than 45 school days in an academic year or if they will have been so by the time the cancellation takes effect.
- 4.12. The headteacher will report the number of suspensions and exclusions that have been cancelled, alongside the circumstances around and reasons for cancellation, to the Governing Committee once per term, to allow the Governing Committee to have appropriate oversight.
- 4.13. The headteacher will not issue any 'informal' or 'unofficial' suspensions or exclusions, e.g. sending a pupil home to 'cool off', regardless of whether the parents have agreed to this. The headteacher will not use the threat of suspension or exclusion as a means of instructing parents to remove their child from the premises.
- 4.14. All suspensions and exclusions will be formally recorded on the school's system
- 4.15. At all times, the headteacher will take into account their legal duties under The Equality Act 2010 and the Special Educational Needs and Disability Code of Practice: 0 to 25 Years, ensuring that they do not discriminate on any grounds, e.g. race, sex, disability, and will not increase the severity of a pupil's suspension on these grounds.
- 4.16. The headteacher will not issue any 'informal' or 'unofficial' suspension, such as sending a pupil home to 'cool-off', regardless of whether or not the parents/carers have agreed to this.
- 4.17. The headteacher will not use the threat of suspension or exclusion as a means of instructing parents/carers to remove their child from the premises.
- 4.18. Where a headteacher is considering the permanent exclusion of a pupil he/she must consult with the CEO of the Trust first

5. Factors to consider when suspending or excluding a pupil

- 5.1. When considering the suspension of a pupil, the headteacher will:
- Allow the pupil the opportunity to present their case.
 - Take into account any contributing factors that are identified after a case of poor behaviour has occurred, e.g. if the pupil's wellbeing has been compromised, or they have been subjected to bullying.
 - Take into consideration whether the pupil has received multiple suspensions or is approaching the legal limit of 45 suspended days per school year, and whether suspension is serving as an effective sanction.
 - Consider early intervention to address underlying causes of disruptive behaviour, including liaising with external agencies, to assess pupils who demonstrate consistently poor behaviour.
- 5.2. The headteacher will consider what extra support may be available for vulnerable pupil groups whose suspension rates are higher, in order to reduce their risk of suspension, including the following:
- Looked after children (LAC)
 - Pupils eligible for free school meals
 - Pupils with SEND
 - Those in the LGBTQ+ community
 - Certain ethnic groups
- 5.3. In light of the above, the headteacher will consider avoiding permanent exclusion for pupil groups who are particularly vulnerable to the impacts it would create for them.
- 5.4. Where any member of staff has concerns about vulnerable pupil groups and their behaviour, they will report this to the headteacher who will consider what extra support or alternative placement is required.
- 5.5. The headteacher will work in conjunction with the parents/carers of any pupil with additional needs, in order to establish the most effective support mechanisms.

6. Preventative measures

Before taking a final decision to exclude, the headteacher will consider whether it is in the best interests of all parties to initiate off-site directions or managed moves as preventative measures to exclusion.

Off-site direction

1. The board of trustees may use their general powers to arrange for any registered pupil to attend at any place outside the school premises for the purpose of receiving educational provision intended to improve their behaviour.

2. The Governing Committee and the headteacher will decide, in communication with the pupil and their parents, whether off-site direction is an appropriate solution to manage a pupil's behaviour and avoid suspension or exclusion. Where all parties agree to this course of action, the school will work with the pupil and their parents to discuss and agree a plan for the off-site direction, including a proposed maximum period of time that the pupil will be at the alternative provision and any alternative options that will be considered once the time limit has been reached, e.g. managed moves.
3. The school will keep any off-site placements under review by holding review meetings

Managed moves

Where it is thought to be in a pupil's best interest to transfer them to another mainstream school permanently, the headteacher will discuss this with the parents of the pupil, and the LA if the pupil has an EHC plan – managed moves will only go ahead with the voluntary agreement of all parties involved, including the parents and the admission authority of the new school.

The school will ensure that detailed records are kept of any decision to initiate a managed move, including evidence that appropriate initial intervention has been carried out. The school will participate in information sharing with the pupil's new school, including sending data on prior and current attainment, academic potential and any risk management strategies. The school will also cooperate with the pupil's new school to create an effective integration strategy.

Parents who have concerns that a managed move is being forced on them or who are unhappy with a managed move will be referred to the Complaints Policy and Procedure.

7. Duty to inform the Governing Committee and LA

- 7.1. The headteacher will inform the Governing Committee and LA, without delay, of the following:
 - Any permanent exclusions (including where a suspension has been extended to be permanent)
 - Any suspensions which would result in the pupil being suspended for more than five school days in a term (or more than 10 lunchtimes)
 - Any suspensions which would result in the pupil being absent from an examination or national curriculum test
- 7.2. For any suspensions or exclusions, other than those above, the headteacher will notify the Governing Committee and LA once per term.
- 7.3. All notifications to the Governing Committee and LA will include the reasons for suspension and the duration of any suspension.
- 7.4. If the pupil who is suspended lives outside the LA in which the school is located, the headteacher will notify the pupil's 'home authority'.

Duty to inform parents/carers

- 7.5. Following the headteacher's decision to suspend or exclude a pupil, they will inform the parents/carers immediately, of the period of the suspension and the reasons behind this.
- 7.6. The headteacher will inform the parents/carers in writing, of the following:
- The reasons for the suspension/expulsion
 - The length of the suspension, or, for a permanent exclusion, the fact that it is permanent
 - Their right to raise any representations of the suspension or exclusion to the Governing Committee, including how the pupil will be involved in this and how the representations will be made
 - Their right to attend a meeting where there is a legal requirement for the Governing Committee to consider the suspension or exclusion, and the fact that they are able to bring an accompanying individual
 - The arrangements that have been made for the pupil to continue their education prior to the organisation of any alternative provision, or the pupil's return to school
 - Relevant sources of free, impartial information
- 7.7. Where the pupil is of compulsory school age, the headteacher will inform the parents/carers by the end of the afternoon session that:
- For the first five days of the suspension, parents/carers are legally required to ensure that their child is not present in a public place during school hours without justification, and that parents/carers may receive a penalty fine if they fail to do so.
- 7.8. Where the headteacher has arranged alternative provision, they will also inform the parents/carers of the following:
- The start date for any provision of full-time education, including starting and finishing times
 - The address at which the provision will take place
 - Any information necessary for the pupil to identify the person they should report to on the starting date
- 7.9. Where the headteacher is unable to provide information on alternative provision by the end of the afternoon session, they will provide the information in a subsequent written notice without further delay, and within 48 hours of the pupil beginning the provision.
- 7.10. If the alternative provision is due to begin before the sixth day of suspension, the headteacher is able to give less than 48 hours of notice, with parental consent.
- 7.11. If the headteacher has decided to extend the pupil's suspension from a fixed period to permanent exclusion, they will notify the parents/carers of the reasons for this and any other important information.

4. Duty to inform social workers and the virtual school head (VSH)

- 7.12. When a pupil has been suspended or excluded, the headteacher will, without delay, notify the pupil's social worker, if they have one, and the VSH, if they are a looked-after child. This notification will include the period of any suspension and the reasons for suspension or permanent exclusion.
- 7.13. Social workers and/or the VSH will also be informed when a meeting of the Governing Committee is taking place, and will be invited to attend the meeting should they wish to do so.
- 7.14. Social workers and VSHs will be allowed to join a Governing Committee meeting or independent review panel via the use of remote access, as long as the arranging authority is satisfied they will be able to participate effectively, they can hear and be heard throughout the meeting, and their remote participation will not prevent the meeting being fair and transparent.

8. Arranging education for suspended pupils

- 8.1. For any suspension of more than five school days, the Governing Committee will arrange suitable full-time education for the pupil, which will begin no later than the sixth day of suspension.
- 8.2. The Governing Committee will not arrange full-time education for any pupil who is currently in their final year of compulsory education, and who does not have any further public examinations to sit.
- 8.3. The Governing Committee is aware that it is beneficial to suspend pupils to begin their alternative education arrangements before the sixth day of suspension. The Governing Committee will always attempt to arrange alternative provision before the sixth day of suspension.
- 8.4. Where it is not possible to arrange alternative provision during the first five days of suspension, the school will ensure that they take reasonable steps to set and mark work for the suspended pupil.
- 8.5. If a pupil with SEND has been suspended, the Governing Committee will ensure that any alternative provision is arranged in consultation with the parents/carers, who are able to request preferences.

9. Considering suspensions or exclusions

- 9.1. The Governing Committee, or a delegated committee, will consider any representations made by parents/carers in regard to suspension or exclusion.
- 9.2. Parents/carers, the headteacher and, where applicable, a member of the LA, will be invited to attend any consideration of suspension or exclusion and will be able to make representations.
- 9.3. Any meeting to consider a suspension or exclusion will be arranged at a date and time convenient for all parties, and in compliance with any statutory time limits.

Parents, and excluded pupils if they are over 18, will also be able to request that the meeting is held via remote access.

- 9.4. The Governing Committee will consider suspension and exclusions, and the reinstatement of the pupil, where:
- The exclusion is permanent.
 - The suspension would bring the pupil's total number of suspended school days to more than 15 in any given term.
 - The suspension or exclusion would result in the pupil missing a public examination.
- 9.5. The Governing Committee will consider suspension and exclusions within 50 school days of receiving notification, if requested by the parents/carers, where a pupil would be suspended for more than five school days per term, but not more than 15.
- 9.6. In the case of a suspension, where the pupil's total number of suspended school days does not amount to more than five, the Governing Committee will consider any representations made by parents/carers, but will not be able to reinstate the pupil.
- 9.7. Where suspension or exclusion would result in a pupil missing a public examination, the Governing Committee will consider the suspension or exclusion before the test to decide whether the pupil should be reinstated in time to take the examination.
- 9.8. In light of the above, the Governing Committee will also consider whether it would be appropriate to allow the suspended pupil to enter the premises to take the examination.
- 9.9. When considering suspension and exclusions, the Governing Committee will:
- Only discuss the suspension or exclusion with the parties present at the meeting.
 - Ask for any written evidence prior to the meeting.
 - Circulate any written evidence and information to all parties, at least five school days in advance of the meeting.
 - Allow pupils and parents/carers to be accompanied by a person of their choice at the meeting.
 - Consider what reasonable adjustments need to be made to support the attendance and contribution of parties at the meeting.
 - Identify the steps needed to enable and encourage the suspended pupil to attend the meeting and speak on his/her behalf, or how he/she may contribute personal views by other means if attendance is not possible.
 - Consider the interests and circumstances of the suspended or excluded pupil, including the grounds for suspension or exclusion.

10. Reaching a decision

- 10.1. After considering suspensions and exclusions, the Governing Committee will either:

- Uphold a suspension or exclusion; or
 - Reinstate the pupil immediately, or on a specified date.
- 10.2. If reinstatement is not possible, e.g. if the pupil has already returned to school following a suspension, the Governing Committee will consider whether the headteacher's decision to exclude the pupil was fair, lawful and proportionate, based on the evidence presented.
- 10.3. The Governing Committee will apply the civil standard of proof when responding to the facts relating to a suspension or exclusion, i.e. that 'on the balance of probabilities' it is more likely than not that the facts are true.
- 10.4. In order to reach a decision, the Governing Committee will:
- Identify the steps they intend to take to ensure that all parties involved will have the opportunity to participate and present their views.
 - Ensure that minutes are taken of the meeting as a record of the evidence that was considered.
 - Ask all parties to withdraw from the meeting before concluding their decision.
 - Consider whether the suspension or exclusion of the pupil was lawful, proportionate and fair, taking into account the headteacher's legal duties.
 - Record the outcome of the decision on the pupil's educational records, along with copies, which will be kept for at least six months.
 - Make a note of their findings, where they have considered a suspension or exclusion but cannot reinstate the pupil.

11. Notification of considered suspensions or exclusions

- 11.1. The Governing Committee will notify the parents/carers of the suspended or excluded pupil, the headteacher and the LA of their decision following the consideration of a suspension or exclusion, in writing and without delay.
- 11.2. If the Governing Committee decides to make the exclusion permanent, they will notify the parents/carers:
- That it is permanent, and their right for it to be reviewed by an independent review panel.
 - Of the date by which an application for review must be made.
 - That a request to hold the meeting via remote access can be made and how to do this.
 - Of the name and address of whom the review application should be submitted to.
 - That any application should set out the grounds on which it is being made and that, where appropriate, this should include reference to how a pupil's SEND is considered relevant to the suspension.
 - That, regardless of whether a pupil has been identified as having SEND, the parents/carers have a right to require the Governing Committee to ensure a SEND specialist attends the review.
 - Of the role of the SEND expert that will attend the review, and that the parents/carers will not be charged for this.

- That they are required to make it clear if they wish for an SEND expert to attend the review.
- That they may appoint someone at their own expense to make representations to the panel.

11.3. The Governing Committee will also notify parents/carers that if they believe a suspension has been issued as a result of discrimination then they are required to make a claim under The Equality Act 2010, and that this should be within six months of when the discrimination allegedly took place.

11.4. After any conclusion, the Governing Committee will notify the parents/carers, and all other parties involved, of the decision that was made and the reasoning for this, in sufficient detail.

1. Removing pupils from the school register

11.5. The headteacher will remove pupils from the school register if:

- 15 school days have passed since the parents/carers were notified of the Governing Committee's decision to uphold a permanent exclusion and no application for an independent panel review has been received.
- The parents/carers have stated in writing that they will not be applying for an independent panel review following a permanent exclusion.

11.6. If an application for an independent panel review has been made within 15 school days, the headteacher will wait until the review has been determined, or abandoned, before removing the pupil from the school register.

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

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

- Code B: Education off-site
- Code D: Dual registration
- Code E: Absent and not attending alternative provision

If applied for by parents within the legal time frame, the local authority or (in the case of an academy) the academy trust must, at their own expense, arrange for an IRP hearing to review the decision of a governing board not to reinstate a permanently excluded pupil.

2. Independent Review Panel

11.9. The Independent Panel will review the Governing Boards's decision not to reinstate a permanently excluded pupil, if the parents/carers submit their application for this within the required time frame.

11.10. Parents/carers are required to submit their applications within:

- 15 school days of the Governing Committee's notification of their decision.
- 15 school days of the final determination of a discriminatory claim made under The Equality Act 2010.

- 11.11. Any application made outside of this timeframe will not be reviewed.
- 11.12. Parents can request that independent review panels take place via remote access.
- 11.13. Parents/carers are able to request an independent panel review even if they did not make a case to, or attend, the Governing Committee's initial consideration of the suspension.
- 11.14. The Local authority/Academy Trust will adhere to all statutory guidelines when conducting an independent panel review, as outlined in the DfE's statutory guidance document 'Suspension and permanent exclusion from maintained schools, academies and pupil referral units in England, including pupil movement' September 2023
- 11.15. '

12. Appointing a SEN expert

- 12.1. If requested by parents/carers in their application for an independent review panel, the Sigma Trust must appoint a SEN expert to attend the panel and cover the associated costs of this appointment.
- 12.2. The Sigma Trust must make arrangements to indemnify the SEN expert against any legal costs and expenses reasonably incurred as a result of any decisions or actions connected to the review and which are taken in good faith.
- 12.3. Parents/carers have a right to request the attendance of a SEN expert at a review, regardless of whether the school recognises that their child has SEN.
- 12.4. The SEN expert's role is set out in section 14 of this policy.
- 12.5. Individuals may not serve as a SEN expert if they have, or at any time have had, any connection with the Sigma Trust, The Thomas Lord Audley School or The Thomas Lord Audley School, parents or pupil, or the incident leading to the suspension or exclusion, which might reasonably be taken to raise doubts about their ability to act impartially; however, an individual is not taken to have such a connection solely because he/she is an employee of the Sigma Trust.
- 12.6. The SEN expert should be a professional with first-hand experience of the assessment and support of SEN, as well as an understanding of the legal requirements on schools in relation to SEND. Examples of suitable individuals might include educational psychologists; specialist SEN teachers; special educational needs coordinators (SENCOs); and behaviour support teachers. Recently retired individuals are not precluded from fulfilling this role, though the The Sigma Trust would need to assure themselves that the individual has a good understanding of current practice and the legal requirements on schools in relation to SEN.

- 12.7. Whilst individuals are not automatically taken to be partial simply because they are an employee of, or contracted by, a The Sigma Trust, they should not have had any previous involvement in the assessment or support of SEN for the suspended pupil, or siblings of the suspended pupil. The Sigma Trust should request that prospective SEN experts declare any conflict of interest at the earliest opportunity.
- 12.8. The final decision on the appointment of an SEN expert is for the Sigma Trust to make, but it should take reasonable steps to ensure that parents/carers have confidence in the impartiality and capability of the SEN expert. Where possible, this may include offering parents/carers a choice of SEN expert. In order to meet its duties within the statutory time frame, the Sigma Trust should consider maintaining a list of individuals capable of performing the role of SEN expert in advance of a request.
- 12.9. It is for the Sigma Trust to determine the amount of any payment in relation to the appointment of the SEN expert, such as financial loss, travel and subsistence allowances.

13. The role of a SEN expert

- 13.1. The SEN expert's role is analogous to an expert witness, providing impartial advice to the panel on how SEN might be relevant to the suspension or exclusion. The SEN expert should base their advice on the evidence provided to the panel. The SEN expert's role does not include making an assessment of the pupil's SEN.
- 13.2. The focus of the SEN expert's advice should be on whether the school's policies which relate to SEN, or the application of these policies in relation to the suspended pupil, were legal, reasonable and procedurally fair. If the SEN expert believes that this was not the case they should, where possible, advise the panel on the possible contribution that this could have made to the circumstances of the pupil's suspension or exclusion.
- 13.3. Where the school does not recognise that a pupil has SEN, the SEN expert should advise the panel on whether they believe the school acted in a legal, reasonable and procedurally fair way with respect to the identification of any SEN that the pupil may potentially have, and any contribution that this could have made to the circumstances of the pupil's suspension or exclusion.
- 13.4. The SEN expert should not criticise a school's policies or actions simply because they believe a different approach should have been followed or because another school might have taken a different approach.

14. The duties of the Independent Review Panel members, the clerk and the SEN expert in the conduct of an independent review panel

- 14.1. The role of the panel is to review the Governing Committee's decision not to reinstate a permanently excluded pupil. In reviewing the decision, the 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 school.

- 14.2. The panel **must** apply the civil standard of proof, (i.e. 'on the balance of probabilities' it is more likely than not that a fact is true) rather than the criminal standard of 'beyond reasonable doubt'.
- 14.3. Following the review, the panel can decide to:
 - Uphold the decision;
 - Recommend that the Governing Committee reconsiders their decision; or
 - Quash the decision and direct that the Governing Committee considers the decision again.
- 14.4. The panel's decision can be unanimous and is binding on the pupil, parents, the Governing Committee, headteacher, LA and The Sigma Trust

15. Reconsidering suspensions and exclusions following a review

- 15.1. Where the independent review panel instructs the Governing Committee to review their suspension or exclusion decision, they will do so within 10 school days of being given notice of the review panel's decision.
- 15.2. The school is aware that if the Governing Committee does not offer to reinstate the pupil, then the school will be required to make a payment of £4,000 directly to the LA in which the school is located.
- 15.3. If, following a reconsideration of an exclusion, the Governing Committee offers to reinstate the pupil but the parents/carers decline, no adjustment will be made to the school's budget.
- 15.4. Following a reconsideration, the Governing Committee will notify the parents/carers, the headteacher and, where necessary, the LA, of their reconsidered decision and the reasons for this.

16. Criminal investigations

- 16.1. The headteacher will not postpone taking a decision to exclude or suspend a pupil due to a police investigation being underway, or any criminal proceedings that are in place.
- 16.2. The headteacher will give particular consideration when deciding to exclude or suspend a pupil where evidence is limited by a police investigation, to ensure that any decision made is fair and reasonable.
- 16.3. If the Governing Committee is required to consider the headteacher's decision in these circumstances, they will not postpone the meeting and will make a decision based on the evidence available.

17. Monitoring and review

- 17.1. This policy will be reviewed on an annual basis by the headteacher in conjunction with the Governing Committee.

- 17.2. All members of staff are required to familiarise themselves with this policy as part of their induction programme.

18. Conducting Governing Committee meetings or independent review panels via remote access

remote Parents, or excluded pupils if they are 18 or older, will be able to request that Governing Committee meetings or independent review panels are held via access; however, parents and pupils will be made aware that this is not the default option.

governing Where a parent or pupil makes a request correctly in line with instructions set out in the headteacher's or Governing Committee's written notification, the board or LA will hold the meeting via the use of remote access.

Remote meetings and panels will be held in accordance with timelines for face-to-face meetings.

Where a request for a meeting to be held via remote access is not made, or the parent or pupil does not state a preference, the meeting or panel will be held in person unless it is not practicable to do so.

If there is a reason related to extraordinary events or unforeseen circumstances, e.g. an outbreak of an infectious illness, which means it is not reasonable for a meeting or panel to be held in person, it may be held via remote access.

is Meetings will only be held via remote access if the Governing Committee or LA satisfied that that the meeting can be held fairly and transparently. If this cannot be done, the Governing Committee or LA will consult with the parent to discuss how a face-to-face meeting can be arranged that will be convenient for them.

If there are technological or internet issues during a remote meeting which compromises the ability for participants to be seen or heard or prevents the meeting from being held fairly and transparently and it is not reasonably practicable to resolve, a face-to-face meeting will be arranged without delay.

or LA When holding meetings or panels via remote access, the Governing Committee will:

Comply with relevant equalities legislation.

Enable access to support which the parent is entitled to, including the presence of a friend.

Confirm with all participants that they have access to the technology that will allow them to participate in the meeting or panel.

Ensure all the participants will be able to put across their point of view and/or fulfil their function.

Ensure the remote meeting or panel can be held fairly and transparently.

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Where a suspension or exclusion began before 1 September 2023 and a Governing Committee meeting has not yet been held, the headteacher will notify parent, either on 1 September or as soon as possible afterwards, that they can ask the Governing Committee to hold the meeting via the use of remote access. This also applies if an exclusion began before 1 September and the parent is entitled to make representations but has not yet done so. The headteacher's notification will explain how requests must be made and to whom and that requests must be made within three school days of the notification.

parent,

Where an exclusion began before 1 September 2023 and an independent review panel has not yet been held, the Governing Committee must notify the either on 1 September or as soon as possible that they can ask the independent review panel to hold the meeting via the use of remote access. This also applies if an exclusion began before 1 September and the parent is entitled to apply for an independent review panel but has not yet done so. The notification will explain how requests must be made and to whom and that requests must be made within three school days of the notification

c) **Reviewing the Headteacher's Suspension or Exclusion Decision**

