

# Featherstone Primary School

## Behaviour Policy



Aspire, Believe, Succeed

**Agreed by Governors:** Full Governing Board

**Approval date:** 6th March 2019

**Review date:** March 2021

### Policy Statement

At Featherstone Primary we realise positive behaviour is reliant upon clear lines of communication and responsibility between all members of the school community including parents, staff, pupils and governors.

### Aims and Expectations

The School's Behaviour Policy is designed to support our aim to be a caring community where every member of the school community feels valued and respected, that each person is treated fairly and that there is mutual trust and respect for all.

Our first rule is **respect**. The School expects every member of the school community to behave in a respectful way towards others and to the learning environment.

We treat all children fairly and apply this Behaviour Policy in a consistent way. This policy aims to help children grow in a safe and secure environment and to become positive, responsible and increasingly independent members of the School community.

The School rewards good behaviour, as it believes that this will develop an ethos of kindness and co-operation.

### School Rules

The School Council identified behaviour rules for learning in class and around school. The rules are the same for every class so children understand there are consistent expectations.

The views of teachers, parents and all pupils were taken on board to develop this policy. School rules are displayed on a board in the classrooms.

#### Playground and Around School Rules

- **Respect everyone's feelings.**
- **Do as you are asked first time.**
- **Keep hands, feet and objects to yourself.**
- **Be polite and truthful at all times.**
- **Keep our school clean, tidy and safe and look after everyone's belongings.**
- **Allow everyone in school to listen and learn.**
- **Call everyone by their given name.**
- **Walk around the school building.**

The Behaviour Policy must be adhered to by all members of staff to ensure all children are treated consistently, fairly and have a good understanding of the consequences of their choices both positive and negative.

### **Zone Board**

The school uses a Zone Board to support the school's Behaviour Policy and school rules. It also provides a visual representation of the behaviour choices being made by individuals and whole classes. In some circumstances a child with additional needs may have their own personal Zone Boards. The School Rules are displayed near the Zone Board.

The Zone Board contains nine coloured sections. At the start of the day children's names start in green as a positive start to the day. Pupils are taught that keeping the rules will ensure that they stay in the Green zone (which is great!).

### **Good Behaviour and Praise**

A teacher/teaching assistant may decide that they have been spotted doing so well that their name is moved up the zones to bronze, then silver, then gold and in exceptional circumstances to platinum.

Rewards are given out in points as children move up the ladder colours. If a child reaches 'Platinum' they have the opportunity to see the Head or Deputy Head Teacher and to earn ten house points for their house.

At the end of the week children who have remained on green or higher will be awarded with half an hour of Enrichment Time.

Where children's work is of a high quality, privilege cards are awarded for pupils to show their work to the Head Teacher or Deputy Head Teacher.

At Featherstone all of our teaching staff use a parental engagement program called 'Marvellous Me'. This program is specifically designed to praise children by sending online awards and certificates directly to the linked parent app or online account. Teachers actively involve children in seeing the praise that is being sent home to further encourage excellent behaviour. Each parent can access their child's praise and awards on their mobile smartphone.

Featherstone Primary School operates a house system. Our houses are Phoenix (red), Pegasus (yellow), Unicorn (blue) and Griffin (green). All pupils will be placed in a house when they are enrolled into school. Children will not be placed in the same house as their sibling/s. Any house points earned count towards the half termly and yearly treat. At the end of each half term, a small treat will be earned by each child in the house who has collected the most house points. However, a child that has received two or more sanctions (orange, red or grey zones) will not receive a treat. At the end of the year the house that has earned the most house points from September to July will have earned a larger treat. This may be something that takes place in or out of school. Again, pupils who have received sanctions, six over the year in the case of the end of year prize, will not receive the reward.

## **Sanctions**

Good behaviour is an expectation at all times within our school, however, when required the school employs a number of sanctions to enforce the school rules, and to ensure a safe and positive learning environment.

If a pupil fails to keep one or more of the class rules or expectations, an adult will initially give the child a verbal warning and their name will move from green down to yellow. If the child repeats the behaviour, the child's name will be moved into the orange zone which will result in them losing five minutes from Enrichment Time on the next Friday afternoon. The pupil is encouraged to make the right choice and choosing to change back to appropriate behaviour will mean the name will return to the green zone and they will not lose any Enrichment Time.

Red zone is for pupils who fail to improve after yellow and orange warnings. In serious cases, a child can have a direct route to red for hurting others, bad language, damaging property or endangering the safety of others. This comes with a 10 minute loss of Enrichment time, but once again can be earned back if behaviour improves significantly, although this would be rare. A child who receives red will be firstly disciplined by their class teacher. If a child does not improve, or continues to behave badly, they will then move to grey. This results in a 15 minute loss of Enrichment Time and the child will be seen by the Head Teacher or the Deputy Head Teacher. Sanctions will be issued at the end of each day and the child's position on the zone board will determine the sanction (see Zone Board below).

If a child has had to lose ten or more minutes of their Enrichment Time as a result of the above, parents will be notified by text message so that they are kept informed and also so that we continue to have their support, which is crucial to encourage positive behaviour in school.

The Zone Board is for managing behaviour. It must not be used to reward for academic achievements. Marvellous Me must be used for that. It may, however, be used to reward 'learning' behaviours.

| Behaviours  |          | Award / Sanction   |
|---|----------|--|
| <p>Children can work their way through the upper zones for demonstration all manner of good behaviours, i.e.</p> <ul style="list-style-type: none"> <li>• Positive attitude to work and lessons</li> <li>• Being kind and respectful to staff and other pupils               <ul style="list-style-type: none"> <li>• Doing as asked first time</li> <li>• Being safe and responsible</li> <li>• Being polite and truthful</li> </ul> </li> </ul> | Platinum | A child who ends the day on platinum receives 10 house points and a prize reward. They must also be sent to EG or RH for praise. |
|   | Gold     | A child who ends the day on gold receives 5 house points.  |
|   | Silver   | A child who ends the day on silver receives 3 house points.  |
|   | Bronze   | A child who ends the day on bronze receives 1 house points.  |
| All the children start their day on green.  | Green    | A child who ends the day on Green receives nothing. This is the basic expectation for behaviour.                                 |
| This is a warning zone for low level behaviours ie shouting out, not sitting nicely etc.  | Yellow   | A child who ends the day on yellow loses nothing but needs behaviour reminders.  |
| This zone is for pupils who fail to improve after a yellow warning. A child who is here will have continued with low level behaviours.  | Orange   | A child who ends the day on orange loses 5 minutes from Enrichment time.   |
| This zone is for pupils who fail to improve after a yellow and orange warnings. Children can have a direct route to red for hurting others, bad language, damaging property or endangering the safety of others.  | Red      | A child who ends the day on red loses 10 minutes from Enrichment time. They must also go to HB (EYFS/KS1) or ND (KS2) at 3pm.    |
| This zone is for pupils who are consistently ignoring adult intervention for the poor behaviours listed above.  | Grey     | A child who ends the day on grey loses 15 minutes from enrichment time. They must also go to either EG.                          |
| <p><i>*Sanctions are to be given depending on a child's position in the zones at home time, unless they have been on Red or Grey, where they will have seen either HB/ND or EG already.</i></p>   |          | <p><i>*Rewards are to be given depending on a child's position in the zones at home time.</i></p>                                |

### **Notifying Parents/Carers**

Where a child has been placed on 'Red' or 'Grey' the class teacher will aim to make contact with parents to inform them either by phone call or face to face meeting. In the event that a child is in after school club then a text message will be sent to arrange a suitable time for a meeting/telephone conversation.

### **Behaviour - Lunchtimes**

To work alongside the zone board system that is used in class, the lunch time staff are trained to manage minor behaviour issues and they will record behaviours using the same system, however, children who do not follow the rules will receive their sanction immediately. Lunch time staff can give yellow verbal warnings, 5 minutes orange time outs, 10 minute red time outs and 15 minutes grey time outs. A Senior Leader is always present during lunch times.

### **Monitoring the Behaviour Log**

On a weekly basis class teachers log children's behaviour on CPOMs. If there is a regular pattern of behaviour concerns parents will be contacted to come into school to meet the class teacher in the first instance. If behaviour continues to not improve parents will be asked to meet a Senior Leader to discuss the child's behaviour. A written trail of communication will be kept by school to document the appropriate actions.

### **Individual Behaviour Plan (IBP)**

If a child's behaviour still continues to cause a concern, school will devise an Individual Behaviour Plan (IBP) with targets which will be discussed with the child and their parents. If it is felt that external support and advice is needed, then the school at this stage may involve the support of external agencies (Family Support, Behaviour School Support and Educational Psychologist). The plan will give parents an opportunity to have an input and reviewed with them on an agreed date.

### **What will this Individual Behaviour Plan look like?**

#### **School Action**

- Parents will be informed of the school's decision to devise an IBP with set targets.
- The IBP will have set targets which will show how the behaviour can be improved and how this will be monitored.
- Targets will be devised by the Parent / Class Teacher / SENCo.
- Targets will be specifically personal to the child with praise and rewards built in to identify success.
- The targets will be measured through discussion with the Class Teacher, child and parent.
- A review of the targets will take place on a six weekly basis. Parents will be involved in the review process.

#### **Strategies that may be put into place**

- One to one sessions with the class teacher
- A personal 'Choices' sheet with linked awards
- Counselling with a learning mentor
- A book for parents and teacher to communicate through
- Extra attention from the Head / Deputy head to acknowledge their good behaviour

### **Review of the Individual Behaviour Plan**

- The child will have set targets for six weeks and these will then be reviewed. If we find that the targets need adjusting as a result of the child's needs then this will be reviewed more regularly. If the child's behaviour does not improve after having been on the first IBP, the next stage is for the child to have more specific HIGH FOCUS behaviour targets which will be agreed with the child and their parents. This may include devising a 'Choices' sheet / Time out sheet.
- The targets would be more individualised to the child's needs at the time. Advice on this will also be taken from external agencies.

### **External agency involvement**

If a child's poor behaviour continues then the support of external agencies will be called upon for advice;

- Behaviour Support: following an IBP review and where there is no improvement in the child's behaviour this will then lead to a referral and support from the City of Birmingham Schools (CoBs) to gain further support and advice. In such circumstances we can provide specific targeted intervention, e.g. Social Skills groups.
- Communication and Autism Support (CAT): Some children with a specific diagnosis can demonstrate challenging behaviour. If this is the case we are able to access support from CAT to be involved in the review process of the IBP.
- Educational Psychologist Assessment: Where there is a need for the Educational Psychologist to be involved to carry out any forms of observation / assessment linked to learning or behaviour, consent for this will have to be granted from parents.

### **The Role of Parents**

We try to build a supportive dialogue between the home and school and we inform parents immediately if we have any concerns about their child's behaviour.

At the start of the school year, parents, teachers and pupils sign the Home/School Agreement which states that the family will support the school's policies and guidelines for behaviour. We expect parents to support their child's learning and to co-operate with the school, as set out in the Home/School Agreement.

If the school has to use reasonable sanctions with a child, we expect parents to support the actions of the school. If parents have any concerns about the way that their child has been treated, they should initially contact the Head Teacher.

- Parents should regularly monitor their child's home school book/bag as any incidents may be communicated.
- Parents should attend the review so that they are fully involved in the process and that the system of communication is clear and transparent.

## **Serious Incident and Fixed Term Exclusions**

The Head Teacher will reserve his/her right to exclude any child for serious misconduct as advised by The Secretary of State for Education i.e.

- Wilfully hurting another child/adult
- Vandalism, refusal to follow instructions
- Endangering the safety of others
- Disruption in class
- Inappropriate actions and behaviour (in school / online e-safety)

Only the Head Teacher has the power to exclude a pupil from school. The Head Teacher may exclude a pupil for one or more fixed periods, for up to 45 days in any one school year. The Head Teacher may also exclude a pupil permanently. It is also possible for the Head Teacher to convert fixed-term exclusion into a permanent exclusion if the circumstances warrant this.

If the Head Teacher excludes a pupil, he informs the parents immediately, giving reasons for the exclusion. At the same time, the Head Teacher makes it clear to the parents that they can, if they wish, appeal against the decision to the Governing Board.

The school informs the parents how to make any such appeal. The Head Teacher informs the Local Authority (Exclusions Team) and the Governing Board about any permanent exclusion and about any fixed-term exclusions beyond five days in any one term.

The Governing Board itself cannot either exclude a pupil or extend the exclusion period made by the Head Teacher. The Governing Board has a Discipline Committee, which is made up of between three and five members. This committee considers any exclusion appeals on behalf of the Governors.

## **FIXED TERM OR PERMANENT EXCLUSIONS**

**[Department for Education: Guidance from maintained schools, Academies and pupil referral units in England \(A guide for those with legal responsibilities in relation to exclusion\).](#)**

### **The Head Teacher's duty to inform parties about an exclusion**

Whenever a Head Teacher excludes a pupil they must, without delay, notify parents of the period of the exclusion and the reasons for it.

They must also, without delay, provide parents with the following information in writing:

- the reasons for the exclusion;
- the period of a fixed period exclusion or, for a permanent exclusion, the fact that it is permanent;
- parents' right to make representations about the exclusion to the Governing Board and how the pupil may be involved in this;
- how any representations should be made; and

- where there is a legal requirement for the Governing Board to consider the exclusion, that parents have a right to attend a meeting, be represented at this meeting (at their own expense) and to bring a friend.

Written notification of the information can be provided by: delivering it directly to the parents; leaving it at their last known address; or by posting it to this address.

When notifying parents about an exclusion head teachers should draw attention to relevant sources of free and impartial information. This information should include:

- a link to this statutory guidance on exclusions: [exclusions guidance](#)
- a link to the Coram Children’s Legal Centre: [www.childrenslegalcentre.com](http://www.childrenslegalcentre.com) 08088 020 008; and
- where considered relevant by the head teacher, links to local services, such as Traveller Education Services or the local parent partnership ([www.parentpartnership.org.uk](http://www.parentpartnership.org.uk)).

**Where an excluded pupil is of compulsory school age the Head Teacher must also notify parents without delay.**

- that for the first five school days of an exclusion (or until the start date of any alternative provision where this is earlier) parents are legally required to ensure that their child is not present in a public place during school hours without reasonable justification, and that parents may be given a fixed penalty notice or prosecuted if they fail to do so. If alternative provision is being arranged then the following information must be included with this notice where it can reasonably be found out within the timescale:
  - the start date for any provision of full-time education that has been arranged for the pupil during the exclusion;
  - the start and finish times of any such provision, including the times for morning and afternoon sessions where relevant;
  - the address at which the provision will take place; and
  - any information required by the pupil to identify the person he / she should report to on the first day.

**Returning from Fixed Term Exclusion**

On return from a Fixed Term Exclusion a re-integration meeting will be arranged with parents and every effort will be made to re-integrate the pupil into the school community. Appropriate support strategies will be implemented, which will be decided in consultation with the parents and the pupils concerned.

**The Head Teacher’s duty to inform the governing body and the local authority about an exclusion**

The Governing Board and Local Authority’s duties to arrange education for excluded pupils. For a fixed period exclusion of more than five school days, the Governing Body (or Local Authority in relation to a pupil excluded from a pupil referral unit) must arrange suitable full-time education for any pupil of compulsory school age. This provision must begin no later than the sixth day of the exclusion.

For permanent exclusions, the Local Authority must arrange suitable full-time education for the pupil to begin no later than the sixth day of the exclusion. This will be the pupil's 'home authority' in cases where the school is maintained.

In addition, where a pupil has a statement of SEN, the local authority must ensure that an appropriate full-time placement is identified in consultation with the parents, who retain their rights to express a preference for a school that they wish their child to attend, or make representations for a placement in any other school.

### **Statutory guidance on the education of pupils prior to the sixth day of an exclusion**

It is important for the school to help minimise the disruption that exclusion can cause to an excluded pupil's education. Whilst the statutory duty on Governing Board or Local Authority is to provide full-time education from the sixth day of an exclusion, there is an obvious benefit in starting this provision as soon as possible. In particular, in the case of a looked after child, schools and the Local Authority will work together to arrange alternative provision from the first day following the exclusion.

Where it is not possible, or appropriate, to arrange alternative provision during the first five school days of an exclusion, schools should take reasonable steps to set and mark work for pupils. Work that is provided should be accessible and achievable by pupils outside of school.

### **The requirements on a governing body to consider an exclusion**

The Governing Board has a duty to consider parents' representations about an exclusion.

The Governing Board may delegate their functions with respect to the consideration of an exclusion decision to a designated sub-committee consisting of at least three governors.

The Governing Board must consider the reinstatement of an excluded pupil within 15 school days 15 of receiving notice of the 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.

If requested to do so by the parents, the Governing Board must 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 five school days, but not more than 15, in a single term.

Where an exclusion would result in a pupil missing a public examination or national curriculum test there is a further requirement for a Governing Board, so far as is reasonably practicable, to consider the exclusion before the date of the examination or test. If this is not practicable, the chair of governors may consider the exclusion independently and decide whether or not to reinstate the pupil. These are the only circumstances in which the chair can review an exclusion decision alone. In such cases parents still have the right to make representations to the Governing Board and must be made aware of this right.

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

- parents;
- the Head Teacher; and
- a representative of the local authority (in the case of a maintained school or PRU)

The Governing Board must make reasonable endeavours to arrange the meeting for a date and time that is convenient to all parties, but in compliance with the relevant statutory.

**Statutory guidance to Governing Board in preparing for the consideration of an exclusion decision:**

Where the Governing Board is legally required to consider the decision of a head teacher to exclude a pupil they should:

- not discuss the exclusion with any party outside of the meeting;
- ask for any written evidence in advance of the meeting (including witness statements and other relevant information held by the school, such as those relating to a pupil's SEN).
- where possible, circulate any written evidence and information, including a list of those who will be present, to all parties at least five school days in advance of the meeting;
- allow parents and pupils to be accompanied by a friend or representative (where a pupil under 18 is to be invited as a witness, the Governing Board should first seek parental consent and invite the parents to accompany their child to the meeting);
- have regard to their duty to make reasonable adjustments for people who use the school and consider what reasonable adjustments should be made to support the attendance and contribution of parties at the meeting (for example where a parent or pupil has a disability in relation to mobility or communication that impacts upon their ability to attend the meeting or to make representations); and
- identify the steps they will take to enable and encourage the excluded pupil to attend the meeting and speak on his / her own behalf (such as providing accessible information or allowing them to bring a friend), taking into account the pupil's age and understanding; or how the excluded pupil may feed in his / her views by other means if attending the exclusion meeting is not possible.

**Statutory guidance to governing bodies on exclusions that would result in a pupil missing a public examination or national curriculum test**

Whilst there is no automatic right for an excluded pupil to take an examination or test on the excluding school's premises, the Governing Board should consider whether it would be appropriate to exercise their discretion to allow an excluded pupil on the premises for the sole purpose of taking the examination or test.

**The requirements on a Governing Body when considering the reinstatement of an excluded pupil**

Where the Governing Board is legally required to consider an exclusion they 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.

The Governing Board must also consider any representations made by:

- parents;
- the head teacher; and
- a representative of the local authority (in the case of a maintained school or PRU).

When establishing the facts in relation to an exclusion decision the Governing Board 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'. In the light of their consideration, the Governing Board can either:

- uphold an exclusion; or
- direct reinstatement of the pupil immediately or on a particular date.

Where reinstatement is not practical because for example, the pupil has already returned to school following the expiry of a fixed period exclusion or the parents make clear they do not want their child reinstated, the Governing Board must, in any event, consider whether the head teacher's decision to exclude the child was justified based on the evidence.

### **Statutory guidance to Governing Board on the consideration of an exclusion decision**

The governing body should identify the steps they will take to ensure all parties will be supported to participate in their consideration and have their views properly heard. This is particularly important where pupils under 18 are speaking about their own exclusion or giving evidence to the Governing Board.

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

The Governing Board should ask all parties to withdraw before making a decision. Where, present a clerk may stay to help the governing body by reference to his / her notes of the meeting and with the wording of the decision letter.

In reaching a decision on whether or not to reinstate a pupil, the Governing Board should consider whether the decision to exclude the pupil was lawful, reasonable and procedurally fair, taking account of the head teacher's legal duties.

The Governing Board should note the outcome of their consideration on the pupil's educational record, along with copies of relevant papers for future reference.

### **The Governing Board's duty to notify people after their consideration of an exclusion**

Where legally required to consider an exclusion, the governing body must notify parents, the head teacher and the local authority of their decision, and the reasons for their decision, in writing and without delay.

In the case of a permanent exclusion the Governing Board's notification must also include the information below.

- The fact that it is permanent.
- Notice of parents' right to ask for the decision to be reviewed by an independent review panel and the following information:
  - a) the date by which an application for a review must be made (i.e. 15 school days from the date on which notice in writing of the governing body's decision was given to parents).
  - b) the name and address to whom an application for a review (and any written evidence) should be submitted;
  - c) that any application should set out the grounds on which it is being made and that, where appropriate, this should include a reference to how the pupil's special educational needs are considered to be relevant to the exclusion;

d) that, regardless of whether the excluded pupil has recognised special educational needs, parents have a right to require the local authority / Academy Trust to appoint an SEN expert to attend the review;

e) details of the role of the SEN expert and that there would be no cost to parents for this appointment;

f) that parents must make clear if they wish for a SEN expert to be appointed in any application for a review; and

g) that parents may, at their own expense, appoint someone to make written and / or oral representations to the panel and that parents may also bring a friend to the review.

### **The Head Teacher's duty to remove a permanently excluded pupil's name from the school register**

The Head Teacher must remove a pupil's name from the school admissions register if:

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

Where an application for an independent review panel has been made within 15 school days, the Head Teacher must wait until the review has been determined, or abandoned, before removing a pupil's name from the register.

Where a pupil's name is removed from the school register and a discrimination claim is subsequently made, the First-tier Tribunal or County Court has the power to direct that the pupil should be reinstated.

### **Appointing a clerk and the clerk's role**

The local authority / Academy Trust may appoint a clerk to provide advice to the panel and parties to the review on procedure, legislation and statutory guidance on exclusions.

Where appointed the clerk must perform the following additional functions.

- Make reasonable efforts to inform the following people that they are entitled to: make written representations to the panel; attend and make oral representations to the panel; be represented; and (in the case of a parent), to bring a friend:

a) the parents;

b) the head teacher (where an excluding head teacher has left the school, the panel may use its discretion in deciding whether also to invite this person to make representations);

c) the Governing Board; and

d) the local authority (in the case of a maintained school or pupil referral unit).

Make reasonable efforts to circulate to all parties, including to panel members and the SEN expert, copies of relevant papers 5 school days in advance of the review. These papers must include:

a) the Governing Board's decision;

b) the parents' application for a review; and

c) any policies or documents that the governing body was required to have regard to in making their decision.

- Give all parties details of those attending and their role, once the position is clear.
- Attend the review and ensure that minutes are produced in accordance with instructions from the panel.

### **Statutory guidance to local authorities on appointing an independent review panel clerk.**

The clerk should not have served as clerk to the governing body meeting.

In addition to the training required by law, clerks should have an up-to-date understanding of developments in case law, legislation and guidance which are relevant to exclusion.

Where a clerk is not appointed, the local authority / Academy Trust should consider what additional steps it may need to take to ensure that the independent review panel is administered properly.

### **Statutory guidance to the clerk on preparing for an independent review**

The clerk should identify in advance of the meeting whether the pupil will be attending. Where an excluded pupil is attending the hearing, consideration should be given in advance as to the steps that will be taken to support his / her participation. If the excluded pupil is not attending it should be made clear that he / she may feed in their views through a representative or by submitting a written statement.

In order to review the Governing Board's decision the panel will generally need to hear from those involved in the incident, or incidents, leading to the exclusion. The clerk should also try to ascertain whether an alleged victim, if there is one, wishes to be given a voice at the review. This could be in person, through a representative or by submitting a written statement.

In the case of witnesses who are pupils of the school it will normally be more appropriate for the panel to rely on written statements. Pupils may appear as witnesses if they do so voluntarily and with their parents' consent. In such cases, that pupil's parents should be invited to attend the meeting in support of their child.

Where character witnesses are proposed the clerk should seek the agreement of the panel, but this should be allowed unless there is good reason to refuse.

All written witness statements should be attributed, signed and dated, unless the school has good reason to wish to protect the anonymity of the witness, in which case the statement should at least be dated and labelled in a way that allows it to be distinguished from other statements. The general principle remains that excluded pupils are entitled to know the substance behind the reason for their exclusion.

Parties attending the hearing have the right to be represented. Representatives may make written or oral representations to the panel. If any of the parties wish to bring more than one friend or representative, the clerk should seek the panel's agreement in advance, having regard to a reasonable limit on numbers attending the review. However, all parents may attend, if they wish to do so, and each can make representations and be represented.

In addition to written witness statements, the clerk should request written evidence from the school in order to circulate it in advance of the meeting, such as policies and documents of the school which the governing body would reasonably have been expected to take account of in reaching their decision on the exclusion.

Where the school's case rests largely or solely on physical evidence, and where the facts are in dispute, then the physical evidence, if practicable, should be retained and be available to the

panel. Where there are difficulties in retaining physical evidence, photographs or signed witness statements should be used.

The clerk should notify the panel where requested documents have not been provided so that the panel can take a decision on whether to adjourn the hearing.

### **Appointing an SEN expert**

If requested by parents in their application for an independent review panel, the local authority must appoint a SEN expert to attend the panel and cover the associated costs of this appointment.

The local authority 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.

Parents 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.

The SEN expert's role is set out in paragraphs 155 to 158 of the Guidance.

Individuals may not serve as a SEN expert if they have, or at any time have had, any connection with the local authority, Academy Trust, school, parents or pupil, or the incident leading to the 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 local authority.

### **Statutory guidance to schools on marking attendance registers following exclusion**

Whilst an excluded pupil's name remains on a school's admissions register the pupil should be marked using the appropriate attendance code. Where alternative provision has been made that meets the requirements of the pupil registration regulations, and the pupil attends it, an appropriate attendance code, such as Code B (Education Off-site) or Code D (Dual Registration), should be used. Where pupils are not attending alternative provision they should be marked absent using Code E.

### **Statutory guidance to local authorities and Academy Trusts on appointing a SEN expert**

The SEN expert should be a professional with first-hand experience of the assessment and support of SEN, as well as an understanding of the legal requirements on schools in relation to SEN and disability. Examples of suitable individuals might include educational psychologists; specialist SEN teachers; special educational needs coordinators (SENCOs); and behaviour support teachers. Recently retired individuals are not precluded from fulfilling this role, though the local authority / Academy Trust would need to assure themselves that the individual had a good understanding of current practice and the legal requirements on schools in relation to SEN.

Whilst individuals are not automatically taken to be partial simply because they are an employee of, or contracted by, a local authority or Academy Trust, they should not have had any previous involvement in the assessment or support of SEN for the excluded pupil, or siblings of the excluded pupil. The local authority / Academy Trust should request that prospective SEN experts declare any conflict of interest at the earliest opportunity.

The final decision on the appointment of an SEN expert is for the local authority / Academy Trust to make but it should take reasonable steps to ensure that parents have confidence in the impartiality and capability of the SEN expert. Where possible, this may include offering parents a choice of SEN expert. In order to meet its duties within the statutory time frame, the local

authority / Academy Trust should consider maintaining a list of individuals capable of performing the role of SEN expert in advance of a request.

It is for the local authority / Academy Trust to determine the amount of any payment in relation to the appointment of the SEN expert, such as financial loss, travel and subsistence allowances.

### **The duties of independent review panel members, the clerk and the SEN expert in the conduct of an independent review panel**

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

The role of the panel is to review the governing body'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.

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'.

Following its review the panel can decide to:

- uphold the exclusion decision;
- recommend that the governing body reconsiders their decision, or
- quash the decision and direct that the governing body considers the exclusion again.

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

The independent review panel's decision is binding on the: pupil; parents; governing body; head teacher; local authority; and (in the case of an Academy) Academy Trust.

The panel may only quash the decision where it considers that it was flawed when considered in the light of the principles applicable on an application for judicial review (statutory guidance on this consideration is provided by paragraphs 148 to 151).

New evidence may be presented to the panel, though the school may not introduce new reasons for the exclusion and panels must disregard any new reasons that are introduced.

In deciding whether the governing body's decision was flawed, and therefore whether to quash the decision, the panel must only take account of the evidence that was available to the governing body at the time of making their decision. This includes any evidence which the panel considers would, or should, have been available to the governing body if they had been acting reasonably.

If evidence is presented that the panel considers is unreasonable to have expected the governing body to have been aware of at the time of their decision, the panel can take account of the evidence when deciding whether to recommend that the governing body reconsider their decision.

Where present, the panel must seek and have regard to the SEN expert's view of how SEN might be relevant to the pupil's exclusion. Where a SEN expert has been requested but is not present, the panel should make parents aware of their right to request that the review is adjourned until such time as an SEN expert can attend.

The jurisdiction of the First-tier Tribunal (Special Educational Needs and Disability) and County Court to hear claims of discrimination relating to a permanent exclusion does not preclude an independent review panel from considering issues of discrimination in reaching its decision.

Where a panel directs a Governing Board to reconsider an exclusion it has the power to order that a readjustment of the school's budget must be made or (in the case of an Academy) that the school must make an equivalent payment to the local authority if the governing body does not offer to reinstate the pupil within 10 school days of receiving notice of the panel's decision. The sum of this adjustment / payment must be £4,000 and would be in addition to any funding that would normally follow an excluded pupil (paragraphs 152 to 154 provide statutory guidance to panels on the only circumstances under which this payment should not be ordered).

The panel does not have the power to order a readjustment or payment in circumstances where it has only recommended that the Governing Board reconsiders their decision.

The panel may adjourn on more than one occasion, if necessary. However, consideration must be given to the effect of adjournment on the parties to the review, the excluded pupil and any victim.

A review cannot continue if the panel no longer has representation from each of the three categories of members required (see paragraph 93). In this event, the panel must be adjourned until the number can be restored.

Once a review has begun, no panel member may be substituted by a new member for any reason. Accordingly, if the required representation cannot be restored from the original members, a new panel must be constituted to conduct the review afresh. In the case of a five-member panel, the panel may continue in the absence of any of its members, provided all three categories of member are still represented.

**Following the review, the panel must issue written notification to all parties without delay. This notification must include:**

- the panel's decision and the reasons for it;
- where relevant, details of any financial readjustment / payment to be made if a Governing Board subsequently decides not to offer to reinstate a pupil; and
- any information that must be recorded on the pupil's educational record to reflect the decision (in particular, where a Governing Board does not decide to reinstate a pupil following a direction to reconsider, it must be noted that the exclusion will not count towards the rule that an admission authority may refuse to admit a child who has been excluded twice; or in the case of a community or voluntary controlled school, that the governing body may appeal against the decision of the local authority as the admission authority to admit the child).

**Statutory guidance to independent review panel members on the conduct of an independent review panel**

The chair should outline the procedure to be followed and explain to all parties that the panel is independent of the school, the local authority or (in the case of an Academy) the Academy Trust.

The panel should support all parties to participate in the review and ensure that their views are properly heard. The independent review should be conducted in an accessible, non-threatening and non-adversarial manner.

It is for the panel to decide whether any witnesses should stay for the rest of the review, but they should not be present before giving evidence.

In the interests of propriety, care should be taken to ensure that no party, other than the clerk, is present with the panel in the absence of the other parties. This includes the SEN expert. The panel should ask all parties, apart from the clerk, to withdraw before making a decision. The clerk may stay to help the panel by referring to the notes of the meeting and providing advice on the wording of the decision letter.

### **Statutory guidance to independent review panel members on coming to a decision**

When considering the governing body's decision in light of the principles applicable in an application for judicial review, the panel should apply the following tests:

- Illegality – did the head teacher and / or governing body act outside the scope of their legal powers in taking the decision to exclude?
- Irrationality – was the decision of the governing body not to reinstate the pupil so unreasonable that it was not one a sensible person could have made?
- Procedural impropriety – was the process of exclusion and the governing body's consideration so unfair or flawed that justice was clearly not done?

Procedural impropriety means not simply a breach of minor points of procedure but something more substantive that has a significant impact on the quality of the decision making process. This will be a judgement for the panel to make but the following are examples of the types of things that could give rise to procedural impropriety: bias; failing to notify parents of their right to make representations; the Governing Board making a decision without having given parents an opportunity to make representations; failing to give reasons for a decision; or being a judge in your own cause (for example, if the head teacher who took the decision to exclude were also to vote on whether to uphold the exclusion).

Where the criteria for quashing a decision have not been met the panel should consider whether it would be appropriate to recommend that a Governing Board reconsiders their decision not to reinstate the pupil. This should not be the default option, but should be used where evidence or procedural flaws have been identified that do not meet the criteria for quashing the decision but which the panel believe justify a reconsideration of the Governing Board's decision.

In all other cases the panel should uphold the exclusion.

### **Statutory guidance to SEN experts on their conduct during an independent review panel**

The SEN expert's role is analogous to an expert witness, providing impartial advice to the panel on how special educational needs might be relevant to the 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 special educational needs.

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 excluded pupil, were legal, reasonable and procedurally fair (in line with the explanations in paragraph 148). If the SEN expert believes that this was not the case he / she should, where possible, advise the panel on the possible contribution that this could have made to the circumstances of the pupil's exclusion.

Where the school does not recognise that a pupil has SEN, the SEN expert should advise the panel on whether he / she believes the school acted in a legal, reasonable and procedurally fair

way with respect to the identification of any special educational needs that the pupil may potentially have, and any contribution that this could have made to the circumstances of the pupil's exclusion.

The SEN expert should not criticise a school's policies or actions simply because he / she believes a different approach should have been followed or because another school might have taken a different approach.

### **The Governing Board's duty to reconsider an exclusion decision following a review**

Where the panel directs or recommends that the Governing Body reconsiders their decision, the Governing Board must reconvene to do so within 10 school days of being given notice of the panel's decision. Notice is deemed to have been given on the same day if it is delivered directly or on the second working day after posting if it is sent by first class mail.

If, following a direction to reconsider, the Governing Board does not offer to reinstate the pupil within 10 school days of being notified of the panel's decision, an adjustment may be made to the school's budget in the sum of £4,000. The school would be required to make a payment directly to the local authority in which the school is located. This payment will be in addition to any funding that would normally follow an excluded pupil.

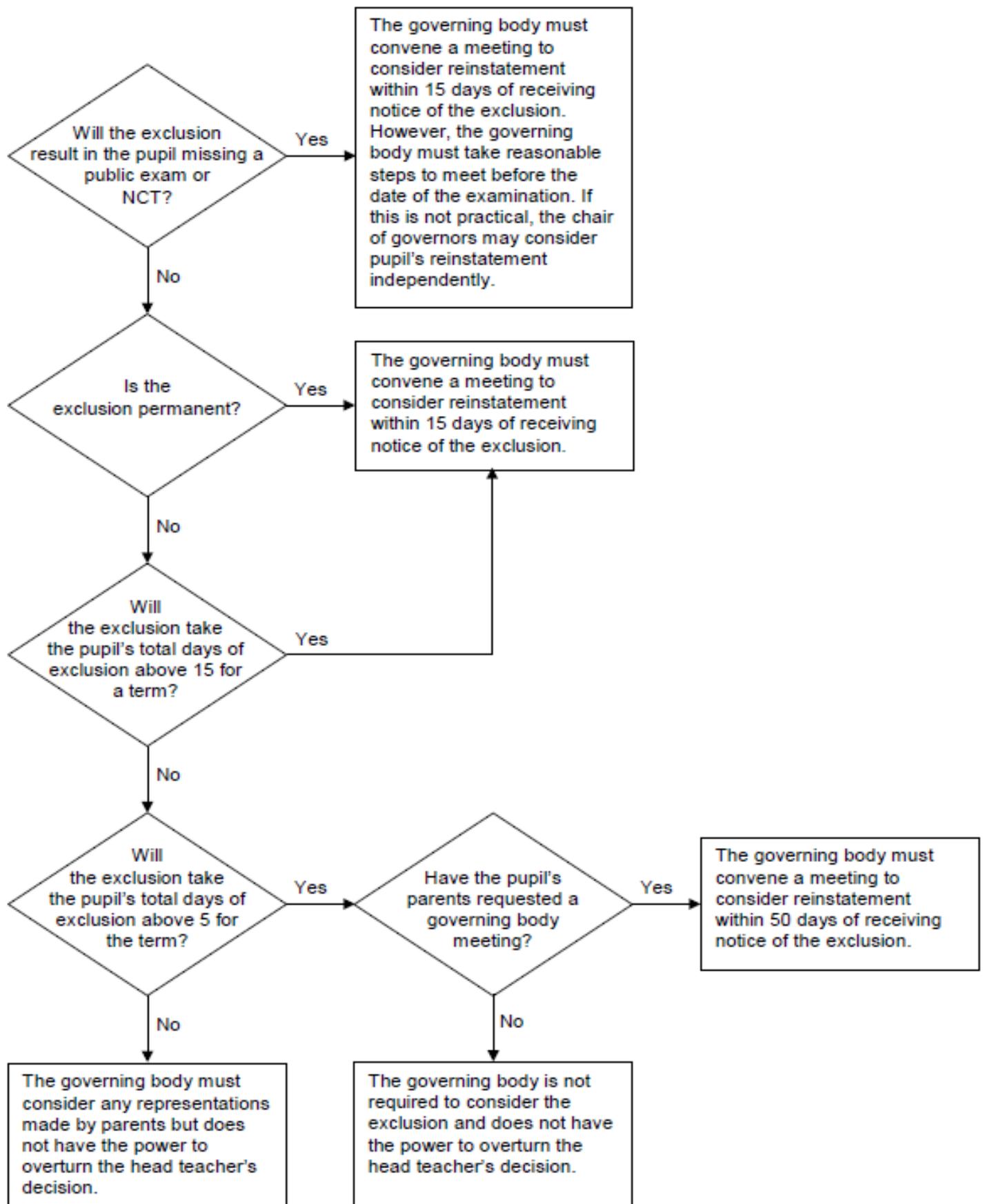
If the Governing Board offers to reinstate the pupil within the specified timescale but this is declined by the parents, no readjustment may be made to the school's budget. The Governing Board must comply with any direction of the panel to place a note on the pupil's educational record. This includes noting that, where a pupil is not reinstated following a direction to reconsider, the exclusion does not count towards the rule that an admission authority may refuse to admit a child who has been excluded twice; or in the case of a community or voluntary controlled school, the Governing Board may appeal against the decision of the local authority as the admission authority to admit the child.

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

- the parents;
- the Head Teacher;
- the Local Authority and, where relevant, the 'home authority'.

**This document is also available from our website at [www.education.gov.uk](http://www.education.gov.uk)**

## Annex A – A summary of the governing body’s duties to review the head teacher’s exclusion decision



The governing body may delegate its functions to consider an exclusion to a designated sub-committee. References to days mean 'school days'.

**Reviewing the Policy.**

The Behaviour steering group meet each term to review behaviour in school and make recommendation. As part of the process the Behaviour Policy will be reviewed. Any recommendation will need the Head Teacher's approval and then for final approval from the Governing Board.

The Governing Board reviews this policy every two years. The Governors may, however, review the policy earlier than this if the government introduces new regulations, or if the Governing Body receives recommendations on how the policy might be improved.

**Monitoring**

The Governing Board will monitor the effectiveness of this policy on a regular basis and if necessary, make recommendations for further improvements.

The Head Teacher keeps a record of any child who is suspended for a fixed-term, or who is permanently excluded. It is the responsibility of the Governing Body to monitor the rate of suspensions and exclusions and to ensure that the school policy is administered fairly and consistently. The Governing Board will pay particular attention to matters of racial equality; it will seek to ensure that the school abides by the non-statutory guidance and that no child is treated unfairly because of race or ethnic background.