

Ormiston Academies Trust

## Suspension and Exclusion policy

### Policy version control

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Author	Sunita Yardley-Patel (Head of Governance)
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# 1. Introduction

## 1.1. Aim

- 1.1.1. Good behaviour in OAT academies is essential to ensure that all children benefit from the opportunities provided through education. The Trust recognises that suspensions, exclusions, managed moves and off-site direction are essential behaviour management tools for principals, and these can be used to establish high standards of behaviour in OAT academies.
- 1.1.2. For most children, suspension (for fixed periods) and exclusion (permanent) will not be necessary, as other strategies can be used to manage behaviour. However, if approaches towards behaviour management have been exhausted, then suspensions and exclusions will sometimes be necessary as a last resort. This is to ensure that other children and OAT staff are protected from disruption and can learn in safe, calm, and supportive environments.
- 1.1.3. OAT does not adopt a 'no exclusion' policy as this can present safeguarding issues and expose staff and children to unreasonable risks. Instead, academies and local authorities are encouraged to work together to create environments where exclusions are not necessary because child behaviour does not require it.
- 1.1.4. This policy must be read and used in conjunction with the DfE's [Behaviour in Schools](#) guidance and the Behaviour Policy, which provides advice to principals, trust leaders and staff on implementing behaviour management and creates a culture with high expectations of behaviour. This policy should only be necessary when strategies, practices and interventions set out within the Behaviour Policy have not been successful in improving a child's behaviour or where the use of more significant interventions or sanctions are required.
- 1.1.5. This policy incorporates the guide to the legislation that governs the suspension and permanent exclusion of children ([The School Discipline \(Pupil Exclusions and Reviews\) \(England\) Regulations 2012](#)) and it also includes the use of behavioural strategies such as managed moves and directing children off-site to improve behaviour to help prevent a suspension or permanent exclusion. This policy also provides statutory guidance for all relevant parties when carrying out their functions in relation to suspension and permanent exclusions.
- 1.1.6. Where relevant, this policy refers to other guidance in areas such as behaviour, safeguarding, SEND and equalities law, but is not intended to provide detailed guidance on these issues. This policy should not be taken as a complete or definitive statement of the law nor as a substitute for the relevant legislation. Legal advice should be sought as appropriate.

## 1.2. Terminology

- 1.2.1. The term **must** refers to what principals, academies, governing boards, local authorities, parents and others are required to do by law and what they must have regard to when carrying out their duties. The term **should** refers to recommendations for good practice and should be followed unless there is good reason not to.
- 1.2.2. The use of the term **suspend** in this guidance is a reference to what is described in the legislation as an exclusion for a fixed period.

- 1.2.3. The term **governing board** means the OAT Board and the Local Governing Body collectively unless referred to separately as the LGB or the Trust Board. The LGB may be represented by its Suspension and Exclusions Committee appointed and constituted by the LGB.
- 1.2.4. The definition of a **parent** can be found in the Education Act 1996, and this applies to all the legislation to which this policy relates. In addition to the child's birth parents, references to parents in this guidance include any person who has parental responsibility (which includes the local authority where it has a care order in respect of the child) and any person (for example, a foster carer) who has care of the child. To reflect this, this policy uses 'parent' to refer to both parents and carers. Where practical, all those with parental responsibility should be involved in the suspension and exclusion process.
- 1.2.5. The relevant person – a parent or the child, aged 18 or over.
- 1.2.6. **Alternative Provision** (AP) refers to suitable full-time education that is arranged for a child from the sixth school day (or earlier) of a suspension or the sixth school day (or earlier) after the first day of an exclusion ([Section 100 Education and Inspections Act 2006](#)). In other circumstances, AP may refer to education arranged for children who are unable to attend mainstream or special school and who are not educated at home, whether for behavioural, health, or other reasons. AP includes Pupil Referral Units (PRUs), AP academies and free academies, and hospital academies, as well as a variety of independent, registered, unregistered and further education settings.

### 1.3. Who is this policy for?

- 1.3.1. Principals, governing boards, local authorities, Independent Review Panel (IRP) members, LGB and IRP clerks, social workers, Virtual School Heads (VSH) and individuals appointed as Special Educational Needs and Disability (SEND) experts.
- 1.3.2. The policy and the law described applies to all children, including those who may be below or above compulsory school age, and those attending nursery classes or sixth forms, except where the age of the child is specifically referred to.
- 1.3.3. The regulations as amended, and this policy, apply to suspensions and exclusions that occur on or after 1 September 2022. The previous policy applies to exclusions that occurred before this date.

### 1.4. Remote meetings

- 1.4.1. Remote meetings can be held in line with section eleven of the DfEs [Suspension and Permanent Exclusion guidance July 2022 \(publishing.service.gov.uk\)](#)

### 1.5. Further information

- 1.5.1. This policy should not be read in isolation. It is important for OAT academies to consider the following guidance: [Behaviour in Schools guidance](#); [Keeping Children Safe in Education](#); [Mental health and behaviour in academies](#); [Understanding Your Data: a guide for school governors and academy trustees](#); and other relevant advice and guidance as part of their approach to using this

policy well. Links to relevant supplementary guidance can be found throughout this policy and in Appendix 1.

## 1.6. What legislation relates to this policy?

1.6.1. The principal legislation to which this policy relates is:

- The Education Act 2002, as amended by the Education Act 2011;
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012;
- The Education and Inspections Act 2006;
- The Education Act 1996; and
- The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007, as amended by the Education (Provision of Full-Time Education for Excluded Pupils) (England) (Amendment) Regulations 2014.

## 2. What has changed?

2.1. This policy has been updated to reflect the government's ambition to create high standards of behaviour in academies so that children are protected from disruption and can learn and thrive in a calm, safe, and supportive environment. This policy provides OAT academies and other bodies involved in this process with information so that they can continue to use suspension and exclusion appropriately. In addition, specific changes to the legislation governing the suspension and exclusion process have been made, and so changes have been made to this policy to reflect this.

2.2. The following is a list of updates:

- 2.2.1. Principals may cancel a suspension or exclusion that has not been reviewed by the LGB. This practice is sometimes known as withdrawing/rescinding a suspension or exclusion. If this occurs, parents, the LGB and the local authority should be notified, and if relevant, the social worker and VSH. Further information on other actions that should take place after an exclusion is cancelled is set out in the Section – Cancelling Exclusions
- 2.2.2. When principals suspend or permanently exclude a child they must, without delay, notify parents. Legislative changes mean that if a child has a social worker, or if a child is looked-after, the principal must now, without delay after their decision, notify the social worker and/or VSH, as applicable.
- 2.2.3. When principals suspend or exclude a child, they must also notify the local authority, without delay. Legislative changes mean that this must be done regardless of the length of a suspension.
- 2.2.4. More detailed guidance on the role of a social worker and VSH, during LGB panel meetings and IRP meetings.
- 2.2.5. More guidance on managed moves, what they are and how they should be used.

- 2.2.6. Clarified guidance on the use of off-site direction ([Section 29A Education Act 2002](#)) as a short-term measure that can be used as part of the academy's behaviour management strategy.
- 2.2.7. Further guidance on the practice of involving children so that any suspended or excluded child is enabled and encouraged to participate at all stages of the suspension or exclusion process, considering their age and ability to understand.
- 2.2.8. Guidance for governing boards to ensure that they review data to consider the level of child moves and the characteristics of children who have been permanently excluded to ensure the sanction is only used, when necessary, as a last resort. ([Understanding your data: a guide for school governors and academy trustees - GOV.UK \(www.gov.uk\)](#))
- 2.2.9. During a suspension, the child will still receive their education and principals will take steps to ensure that work is set and marked for children during the first five school days of a suspension. This can include utilising any online pathways such as Google Classroom or Oak National Academy (<https://www.thenational.academy>).
- 2.2.10. Guidance for governing boards on holding remote meetings.

## 2.3. Duties under the Education and Inspections Act 2006

- 2.3.1. Under the Education and Inspections Act 2006 ([Section 88 of the Education and Inspections Act 2006](#)), it is the responsibility of principals to determine measures to be taken with a view to:
- Promoting, among children, self-discipline, and proper regard for authority,
  - Encouraging good behaviour and respect for others on the part of children and in particular preventing all forms of bullying among children,
  - Securing that the standard of behaviour of children is acceptable,
  - Securing that children complete any tasks reasonably assigned to them in connection with their education, and
  - Otherwise regulating the conduct of children.
- 2.3.2. Permanent exclusions can be used to help achieve these aims when they are absolutely necessary, as a last resort.

## 2.4. Duties under the Equality Act 2010 and Children and Families Act 2014

- 2.4.1. Under the Equality Act 2010 (the Equality Act) and the [Equality Act 2010: advice for academies - GOV.UK \(www.gov.uk\)](#), academies must not discriminate against, harass, or victimise children because of sex; race; disability; religion or belief; sexual orientation; pregnancy/maternity; or gender reassignment. For disabled children, this includes a duty to make reasonable adjustments to any provision, criterion or practice which puts them at a substantial disadvantage, and the provision of auxiliary aids and services. In carrying out their functions, academies must also have due regard to the need to:
- Eliminate discrimination, harassment, victimisation, and other conduct that is prohibited by the Equality Act

- Advance equality of opportunity between people who share a relevant protected characteristic and people who do not, and
  - Foster good relations between people who share a relevant protected characteristic and people who do not share it.
- 2.4.2. The 'relevant protected characteristics' in this context are the characteristics mentioned above. Age is also a relevant protected characteristic, but not when carrying out a function which provides education, benefits, facilities, or services to children.
- 2.4.3. These duties need to be complied with when deciding whether to exclude a child. Academies must also ensure that any provision, criterion, or practice does not discriminate against children by unfairly increasing their risk of exclusion. For example, if reasonable adjustments have not been made for a child with a disability that can manifest itself in breaches of academy rules if needs are not met, a decision to exclude may be discriminatory.
- 2.4.4. The governing board must also comply with the statutory duties in relation to children with Special Educational Need (SEN) when administering the exclusion process, including (in the case of the governing board of relevant settings [\[Section 66 of the Children and Families Act 2014\]](#)) using their 'best endeavours' to ensure the appropriate special educational provision is made for children with SEN and (for all settings) having regard to the Special Educational Need and Disability (SEND) Code of Practice ([SEND code of practice: 0 to 25 years - GOV.UK \(www.gov.uk\)](#)).

## 3. The principal's powers

### 3.1. Decision making process

- 3.1.1. OAT supports principals in using suspension and exclusion as a sanction when warranted, as part of creating a calm, safe, and supportive environment in which children can learn and thrive. To achieve this, suspension and exclusion are sometimes a necessary part of a functioning system, where it is accepted that not all child behaviour can be amended or remedied by pastoral processes, or consequences within the academy.
- 3.1.2. Only the principal or acting principal of the academy can suspend or exclude a child on disciplinary grounds. An acting principal is someone appointed to carry out the functions of the principal in the principal's absence or pending the appointment of a principal. This will not necessarily be the vice principal: it will depend on who is appointed to the role of acting principal.
- 3.1.3. In considering suspension or exclusion the principal should ensure that, as far is appropriate, the academy's 'Vulnerable child pre-exclusion checklist' has been completed. This will guide principals in their review of support and intervention strategies in response to misbehaviour.
- 3.1.4. Where the child has an identified special education need or disability and is receiving support at the level of School Support (SEND register), principals should ensure the relevant Education Director has been contacted for consultation before a decision to permanently exclude has been made.



- 3.1.5. Where the child has an Education, Health and Care Plan (EHCP), the Director of Inclusion – Behaviour, SEND, Safeguarding and Mental Health, must have been contacted for consultation before a decision to exclude has been made.
- 3.1.6. A child may be suspended for one or more fixed periods (up to a maximum of 45 school days in a single academic year) or excluded. A child's behaviour outside the academy can be considered grounds for suspension or exclusion. Any decision of a principal, including suspension or exclusion, must be made in line with the principles of administrative law, ie., that it is: lawful, reasonable, fair and proportionate.
- 3.1.7. When establishing the facts in relation to a suspension or exclusion decision, the principal must apply the civil standard of proof, ie., 'on the balance of probabilities' it is more likely than not that a fact is true, rather than the criminal standard of 'beyond reasonable doubt.' This means that the principal should accept that something happened if it is more likely that it happened than that it did not happen. The principal must take account of their legal duty of care when sending a child home following a suspension or exclusion.
- 3.1.8. Principals should also take the child's views into account, considering these in light of their age and understanding, before deciding to suspend or exclude, unless it would not be appropriate to do so. They should inform the child about how their views have been factored into any decision made. ([Convention on the Rights of the Child | OHCHR](#)). Where relevant, the child should be given support to express their view, including through advocates such as parents or, if the child has one, a social worker. Whilst a suspension or exclusion may still be an appropriate sanction, the principal should also take account of any contributing factors identified after an incident of misbehaviour has occurred and consider paragraph 45 of the Behaviour in Schools guidance.

## 3.2. Suspension

- 3.2.1. Suspension, where a child is temporarily removed from the academy, is an essential behaviour management tool that is set out in the Behaviour Policy. A child may be suspended for one or more fixed periods (up to a maximum of 45 school days in a single academic year). A suspension does not have to be for a continuous period.
- 3.2.2. A suspension may be used to provide a clear signal of what is unacceptable behaviour as part of the academy's Behaviour Policy and show a child that their current behaviour is putting them at risk of exclusion. Where suspension is becoming a regular occurrence for a child, principals should consider whether suspension alone is an effective sanction for the child and whether additional strategies need to be put in place to address behaviour.
- 3.2.3. During a suspension, the child will still receive their education and principals will take steps to ensure that work is set and marked for children during the first five school days of a suspension. This can include utilising any online pathways such as Google Classroom or Oak National Academy (<https://www.thenational.academy/>).
- 3.2.4. The governing board's legal duties to children with disabilities or special educational needs remain in force, for example, to make reasonable adjustments in how they support disabled children during this period. When a child is sent home due to disciplinary reasons and asked to log on or utilise online pathways, this will still be recorded as a suspension.

- 3.2.5. A suspension can also be for parts of the school day. For example, if a child's behaviour at lunchtime is disruptive, they may be suspended from the academy premises for the duration of the lunchtime period. The principal will notify the parents in all cases of suspensions and lunchtime suspensions are counted as half a school day in determining whether a LGB meeting is triggered.
- 3.2.6. The law does not allow for extending a suspension or 'converting' a suspension into an exclusion. In exceptional cases, usually where further evidence has come to light, a further suspension may be issued to begin immediately after the first period ends; or an exclusion may be issued to begin immediately after the end of the suspension.

### 3.3. Permanent Exclusion

- 3.3.1. A permanent exclusion is when a child is no longer allowed to attend the academy (unless the child is reinstated). The decision to exclude a child permanently should only be taken:
- in response to a serious breach or persistent breaches of the academy's Behaviour Policy **and**
  - where allowing the child to remain in the academy would seriously harm the education or welfare of the child or others such as OAT staff or children in the academy.
- 3.3.2. For any permanent exclusion, principals should take reasonable steps to ensure that work is set and marked for children during the first five school days where the child will not be attending alternative provision. Any appropriate referrals to support services or notifying key workers (such as a child's social worker) should also be considered.

### 3.4. Cancelling suspensions or exclusions

- 3.4.1. The principal may cancel any exclusion that has already begun, but this should only be done where it has not yet been reviewed by the LGB.
- 3.4.2. Where a suspension or exclusion is cancelled, then:
- Parents, the LGB, and the LA should be notified without delay and, if relevant, the social worker and VSH. The notification must also provide the reason for the cancellation
  - Parents should be offered the opportunity to meet with the principal to discuss the circumstances that led to the suspension or exclusion being cancelled
  - Academies should report to the LGB once per term on the number of suspensions and exclusions which have been cancelled. This should include the circumstances and reasons for the cancellation enabling LGBs to have appropriate oversight and;
  - The child should be allowed back into the academy.
  - Any days spent out of school as a result of any exclusion, prior to the cancellation will count towards the maximum of 45 school days permitted in any school year.

### 3.5. Process for suspension or exclusion

3.5.1. A full guide on the process for suspensions and exclusions is provided in a separate document, however in summary, principals should:

- Adopt a reliable method for monitoring the 45-day suspension rule, including suspensions received from other academies
- Ensure there is a formal process for informing parents, social workers (where relevant), the LGB and local authority, clearly setting out all reasons for the exclusions
- Provide up-to-date links to sources of impartial advice for parents
- Reintegrate a suspended or excluded child and support the child's future behaviour
- Ensure there is a formal process for arranging, at short notice, suitable full-time alternative education for a child receiving a suspension over five school days.

### 3.6. Reasons and recording suspensions and exclusions

3.6.1. Academy principals are trusted to use their professional judgement based on the individual circumstances of the case when considering whether to suspend or exclude a child. The reasons below are examples of the types of circumstances that may warrant a suspension or exclusion.

- Physical assault against a child
- Physical assault against an adult
- Verbal abuse or threatening behaviour against a child
- Verbal abuse or threatening behaviour against an adult
- Use, or threat of use, of an offensive weapon or prohibited item that has been prohibited by the academy's Behaviour Policy
- Bullying
- Racist abuse
- Abuse against sexual orientation or gender reassignment
- Abuse relating to disability

3.6.2. This list is non-exhaustive and is intended to offer examples rather than be complete or definitive. The Trust collects data on suspensions and exclusions from all its academies via the reports to the Trust Board and the DfE via the termly census. Academies must provide information when requested, on children subject to any type of suspension or exclusion in the previous two terms ([Section 537A of the Education Act 1996](#)). Up to three reasons can be recorded ([Complete the school census - Guidance - GOV.UK \(www.gov.uk\)](#) for each suspension or exclusion (where applicable).

### 3.7. Off-rolling and unlawful exclusions

3.7.1. Telling or forcing a child to leave the academy, or not allowing them to attend the academy, is a suspension (if temporary) or exclusion (if permanent). Whenever a child is made to leave the academy or forbidden from attending the academy on disciplinary grounds, this must be done in

accordance with the School Discipline (Pupil Exclusions and Reviews – England) Regulations 2012 and with regard to relevant parts of this policy.

- 3.7.2. Suspending a child for a short period of time, such as half a day, is permissible, however, the formal suspension process must be followed. Each disciplinary suspension and exclusion must be confirmed to the parents in writing with notice of the reasons for the suspension or permanent exclusion.
- 3.7.3. Any exclusion of a child, even for short periods, must be formally recorded. It is unlawful to suspend or exclude a child simply because they have SEN or a disability that the academy feels it is unable to meet, or for a reason such as: academic attainment/ability; or the failure of a child to meet specific conditions before they are reinstated, such as to attend a reintegration meeting. If any of these unlawful suspensions or exclusions are carried out and lead to the deletion of a child's name from the register, this is known as 'off-rolling'. An informal or unofficial suspension or exclusion, such as sending a child home 'to cool off', is unlawful when it does not follow the formal process and regardless of whether it occurs with the agreement of parents.
- 3.7.4. A further example of off-rolling would be exercising undue influence over a parent to remove their child from the academy under the threat of an exclusion and encouraging them to choose Elective Home Education or to find another school/academy place.
- 3.7.5. If parents feel pressured into electively home educating their child or that the suspension or exclusion procedures have not been followed, they can follow the academy's complaints procedure with the LGB. Ofsted considers any evidence of off-rolling and is likely to judge the academy as inadequate if there is evidence that children have been removed from the academy roll without a formal exclusion or by the academy encouraging a parent to remove their child from the academy, and leaders have taken insufficient action to address this.

### 3.8. Safeguarding, including guidance concerning children who have abused another child (commonly known as child-on-child abuse)

- 3.8.1. If there is an ongoing safeguarding investigation (whether that includes a criminal investigation or not) that may result in the exclusion of a child or if a child has been reinstated following a governing board review, it is likely that there will be complex and difficult decisions that need to be made. It is important that these decisions are made alongside OAT's duty to safeguard and support children and their duty to provide an education.
- 3.8.2. OAT has a statutory duty to make arrangements for safeguarding and promoting the welfare of its children. As part of this duty, academies are required to have regard to guidance issued by the Secretary of State. All academies must have regard to [Keeping Children Safe in Education](#).
- 3.8.3. Furthermore, OAT has a statutory duty to co-operate with safeguarding partners once designated as relevant agencies. Equally, safeguarding partners are expected to name academies as relevant agencies and engage with them in a meaningful way. Ultimately, any decisions are for the local academy to make on a case-by-case basis, with the designated safeguarding lead (or a deputy) taking a leading role and using their professional judgement, supported by other agencies, such as children's social care and the police as required.

- 3.8.4. Section 5 of [Keeping Children Safe in Education](#) sets out the safeguarding process for cases of reports that relate to rape or assault by penetration and those that lead to a conviction or caution: "When there has been a report of sexual violence, the designated safeguarding lead (or a deputy) should make an immediate risk and needs assessment. Where there has been a report of sexual harassment, the need for a risk assessment should be considered on a case-by-case basis." As always when concerned about the welfare of a child, the best interests of the child should come first. In all cases, academies should follow general safeguarding principles as found in [Keeping Children Safe in Education](#).

### 3.9. Reintegration after a suspension or off-site direction

- 3.9.1. Academies should tailor the OAT reintegration strategy to support children to reintegrate successfully into academy life and full-time education following a suspension, period of off-site direction or if the child is reinstated after an exclusion. The reintegration strategy will offer the child a fresh start; help them understand the impact of their behaviour on themselves and others; teach them how to meet the high expectations of behaviour in line with the academy culture; foster a renewed sense of belonging within the academy community and build engagement with learning.
- 3.9.2. The reintegration strategy will be clearly communicated at a reintegration meeting before or at the beginning of the child's return to the academy. During the reintegration meeting, the academy will communicate to the child that they are valued, and their previous behaviour should not be seen as an obstacle to future success. Where possible this meeting will include the child's parents. However, it is important to note that a child will not be prevented from returning to the classroom if parents are unable or unwilling to attend a reintegration meeting. To ensure ongoing progress, the strategy will be regularly reviewed and adapted where necessary throughout the reintegration process in collaboration with the child, parents, and other relevant parties.
- 3.9.3. Where necessary, academies will work with relevant staff and multi-agency organisations, such as teachers, pastoral staff, mentors, social workers, educational psychologists or the safer academies team, to identify if the child has any SEND and/or health needs.
- 3.9.4. A part-time timetable will not be used to manage a child's behaviour and will only be in place for the shortest time necessary. Any pastoral support programme or other agreement will have a time limit by which point the child is expected to attend full-time, either at the academy or alternative provision. There will be formal arrangements in place for regularly reviewing it with the child and their parents. In agreeing to a part-time timetable, the academy has agreed to a child being absent from the academy for part of the week or day and therefore must treat absence as authorised.
- 3.9.5. Academies must consider a range of measures to enable the child's successful reintegration which can include, but are not limited to:
- Maintaining regular contact during the suspension or off-site direction and welcoming the child back to the academy
  - Daily contact with a designated pastoral professional
  - Use of a report card with personalised targets leading to personalised rewards

- Ensuring the child follows an equivalent curriculum during their suspension or off-site direction or receives academic support upon return to catch up on any lost progress
- Planned pastoral interventions
- Mentoring by a trusted adult or a local mentoring charity
- Regular reviews with the child and parents to praise progress being made and raise and address any concerns at an early stage
- Informing the child, parents and staff of potential external support.

## 4. Factors to consider before making a decision

### 4.1. Preventative measures to exclusion

- 4.1.1. The very best Alternative Provision (AP) can be important co-experts in managing behaviour and providing alternatives to exclusion. This could include outreach support for children in OAT academies and offering short-term places to children who need a time-limited intervention away from their academy. Academies should work with high quality AP providers to ensure a continuum of support is available for children for whom good behaviour cultures and policies are not working.
- 4.1.2. In addition to the strategies set out in initial intervention, page 29 of the [Behaviour in Schools](#) guidance, principals should also consider the following: (i) an off-site direction (temporary measure) or (ii) managed moves (permanent measure) as preventative measures to exclusion.
- 4.1.3. Any use of AP should be based on an understanding of the support a child needs in order to improve their behaviour, as well as any SEND or health needs. Off-site direction may only be used as a way to improve future behaviour and not as a sanction or punishment for past misconduct. Off-site direction should only be used where academy interventions and/or outreach have been unsuccessful or are deemed inappropriate and should only be used to arrange a temporary stay in AP.
- 4.1.4. The governing board must have regard to the [Alternative Provision: Statutory guidance for local authorities, principals and governing bodies](#)
- 4.1.5. The nature of the intervention, its objectives, and the timeline to achieve these objectives will be clearly defined and agreed between the academy and the provider in advance. The plan will then be frequently monitored and reviewed ensuring that each child continues to receive a broad and balanced education, and this will support reintegration into mainstream schooling.

### 4.2. Off-site direction

- 4.2.1. Off-site direction is when the LGB requires a child to attend another education setting to improve their behaviour ([Section 29A of the Education Act 2002](#)) and whilst the legislation does not apply to academies, OAT academies can arrange off-site provision for such purposes under their general powers. Where interventions or targeted support have not been successful in improving a child's behaviour, off-site direction should be used to arrange time-limited placements at an AP or another mainstream school/academy. During the off-site direction to another school/academy,

children must be dual registered. Code B should be used for any off-site educational activity, if the provision is an approved educational activity that does not involve the child being registered at any other academy or school.

- 4.2.2. When possible, academy interventions or targeted support from AP academies should be used to meet a child's individual needs and circumstances – whether behavioural or special educational.
- 4.2.3. Depending on the individual needs and circumstances of the child, off-site direction into AP can be full-time or a combination of part-time support in AP and continued academy education. A proposed maximum period of time should be discussed and agreed upon as part of the planning phase for an off-site direction. As part of planning, alternative options should be considered once the time limit has been reached, including a managed move on a permanent basis upon review of the time-limited placement.
- 4.2.4. The LGB must comply with the Education (Educational Provision for Improving Behaviour) Regulations 2010 ([The Education \(Educational Provision for Improving Behaviour\) Regulations 2010.](#)) and must show regard to the [Alternative Provision: Statutory guidance for local authorities, principals and governing bodies](#). Whilst the alternative provision guidance section does not legally apply to academy trusts, LGBs are encouraged to follow this guidance.
- 4.2.5. The statutory guidance and this policy covers objectives and timeframes with appropriate monitoring of progress. Principals must ensure that parents (or the child if 18 or older) and the local authority if the child has an Education, Health and Care Plan (EHCP), are notified in writing and provided with information about the placement ([Regulation 3 of the Education \(Educational Provision for Improving Behaviour\) Regulations 2010 as](#)) as soon as practicable after the direction has been made and no later than two school days before the relevant day.
- 4.2.6. Parents (or children aged 18 or over) and, where the child has an EHCP, the local authority can request, in writing, that the LGB hold a review meeting. When this happens, LGBs must comply with the request as soon as reasonably practicable, unless there has already been a review meeting in the previous 10 weeks.
- 4.2.7. The length of time a child spends in another mainstream school/academy or AP and the reintegration plan must be kept under review by the LGB, who must hold regular review meetings, having regard to the needs of the child, for as long as the requirement remains in effect. Not later than six days before the date of any review meeting, the LGB must give a written invitation to parents (or the child if 18 or older) (and the local authority if the child has an EHCP) to attend the review meeting, or to submit in writing before the date of the meeting their views as to whether off-site direction should continue to have effect. The LGB must ensure, insofar as is practicable, that any review meeting is convened on a date, and at a time, that is suitable for the parent.
- 4.2.8. The LGB must keep the placement under review for as long as the requirement remains in effect and must decide following each review meeting as to whether the requirement should continue to have effect and, if so, for what period of time. The meeting should include arrangements for reviews, including how often the placement will be reviewed, when the first review will be and who should be involved in the reviews.



- 4.2.9. For example, review meetings should take place between the academy, parents, the child, and other agencies e.g., a child's social worker, Child and Adolescent Mental Health Services (CAMHS), Multi-Agency Safeguarding Hubs (MASH) and Youth Justice Teams, and the local authority (if a child has an EHCP) to establish agreed monitoring points to discuss the child's ongoing behaviour. These reviews should be recorded in writing and be frequent enough to provide assurance that the off-site direction is achieving its objectives via monitoring points.
- 4.2.10. The LGB must give written notification of its decision as to whether the requirement to continue the placement should continue and if so, for what period of time including the reasons for it to the parent no later than six days after the date of the review meeting. [Regulation 6 of the Education \(Educational Provision for Improving Behaviour\) Regulations 2010](#)
- 4.2.11. To support the child with reintegration into their referring academy, the focus of intervention whilst off-site, should remain on ensuring that the child continues to receive a broad and balanced curriculum, whilst any inappropriate behaviours which require intervention are being addressed. If a child with a disability or SEN has been moved off-site, the duties under the Equality Act 2010 and the Children and Families Act 2014 continue to apply (for example, to make reasonable adjustments or to put support in place to meet SEN).
- 4.2.12. The length of time the child spends in another mainstream school/academy or AP will depend on what best supports the child's needs and potential improvement in behaviour.

### 4.3. Managed moves

- 4.3.1. Managed moves are used to initiate a process which leads to the permanent transfer of a child to another mainstream school/academy. Managed moves are voluntary and must be agreed with all parties involved, including the parents and the admission authority of the new school/academy. If a temporary move needs to occur to improve a child's behaviour, then off-site direction is used. Managed moves only occur when it is in the child's best interests.
- 4.3.2. Where a child has an EHCP, the relevant statutory duties on the new school/academy and local authority will apply. If the academy is contemplating a managed move, it should contact the local authority prior to the managed move. If the local authority, both academies/school and parents are in agreement that there should be a managed move, the local authority will need to follow the statutory procedures for amending the EHCP.
- 4.3.3. Managed moves should be offered as part of a planned intervention. The original academy must evidence that appropriate initial intervention has been carried out, including, where relevant, multi-agency support, or any statutory assessments were done or explored prior to a managed move.
- 4.3.4. The managed move must be preceded by information sharing between the academy and the new academy/school, including data on prior and current attainment, academic potential, a risk assessment and advice on effective risk management strategies. It is also important for the new academy/school to ensure that the child is provided with an effective integration strategy.
- 4.3.5. If a parent believes that they are being pressured into a managed move or is unhappy with a managed move, they can take up the issue through the academy's formal complaints procedure



with the LGB and, where appropriate, the local authority. Within the school inspections framework ([School inspection handbook - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/school-inspection-handbook)), under leadership and management, Ofsted will consider any evidence found of a parent being pressured into a managed move that has resulted in off-rolling and is likely to judge the academy as inadequate on the basis of such evidence.

#### 4.4. Variation in exclusion rates

- 4.4.1. There are longstanding national trends which show that particular groups of children are more likely to be suspended and/or excluded from school. All of these factors will differ for each child, and the influence of out-of-school factors will vary according to local context, therefore it is important that OAT academies work together with local authorities and local partners to understand what lies behind local trends. Local leaders are best placed to effectively plan and put in place additional and targeted action based on their own context. If OAT or local principals identify any gaps, they are also in the position to act to ensure those who work with children have the training, services and support they need to address these.

#### 4.5. Children with disabilities and Special Educational Needs (SEN) including those with Education, Health and Care Plans (EHCP)

- 4.5.1. The Equality Act 2010 requires academies to make reasonable adjustments for disabled children. This duty can, in principle, apply both to the suspension and exclusion process and to the disciplinary sanctions imposed. Under the Children and Families Act 2014, LGBs ([section 66 of the Children and Families Act 2014](https://www.gov.uk/government/legislation/the-children-and-families-act-2014)) must use their 'best endeavours' to ensure the appropriate special educational provision is made for children with SEN, which will include any support in relation to behaviour management that they need because of their SEN.
- 4.5.2. OAT academies must engage proactively with parents in supporting the behaviour of children with additional needs.
- 4.5.3. Where a principal has concerns about the behaviour, or risk of suspension and exclusion, of a child with SEN, a disability or an EHCP they should, in partnership with others (including where relevant, the local authority), consider what additional support or alternative placement may be required. This should involve assessing the suitability of provision for a child's SEN or disability.
- 4.5.4. Where a child has an EHCP, academies should contact the local authority about any behavioural concerns at an early stage and consider requesting an early annual review prior to making the decision to suspend or exclude. For those with SEN but without an EHCP, the academy should review, with external specialists as appropriate, whether the current support arrangements are appropriate and what changes may be required. This may provide a point for academies to request an EHC assessment or a review of the child's current package of support.

#### 4.6. Children who have a social worker, including looked-after children, and previously looked-after children

- 4.6.1. For the majority of children who have a social worker, this is due to known safeguarding risks at home or in the community. [Characteristics of children in need, Reporting Year 2021 – Explore](#)

[education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](https://explore-education-statistics.service.gov.uk). OAT recognises that for children with a social worker, education is an important protective factor, providing a safe space for them to access support, be visible to professionals and realise their potential. When children are not in the academy, they miss the protection and opportunities it can provide, and become more vulnerable to harm. However, principals should balance this important reality with the need to ensure calm and safe environments for all children and staff, so should design and implement strategies that take both of these aspects into account.

- 4.6.2. Where a child has a social worker, e.g., because they are the subject of a Child in Need Plan or a Child Protection Plan, and they are at risk of suspension or exclusion, the principal should inform their social worker, the Designated Safeguarding Lead (DSL) and the child's parents to involve them all as early as possible in relevant conversations.
- 4.6.3. Where the child has an identified special education need or disability and is receiving support at the level of School Support (SEND register), ensure the relevant Education Director has been contacted for consultation before a decision to permanently exclude has been made. Where the child has an EHCP, the Director of Inclusion – Behaviour, SEND, Safeguarding and Mental Health, must have been contacted for consultation before a decision to exclude has been made.
- 4.6.4. Where a looked-after child (LAC) is likely to be subject to a suspension or exclusion, the Designated Teacher (DT) will contact the local authority's VSH as soon as possible. The VSH, working with the DT and others, will consider what additional assessment and support need to be put in place to help the academy address the factors affecting the child's behaviour and reduce the need for suspension or exclusion. Where relevant, the academy will also engage with a child's social worker, foster carers, or children's home workers.
- 4.6.5. All looked-after children should have a Personal Education Plan (PEP) which is part of the child's care plan or detention placement plan. [Promoting the education of looked-after children and previously looked-after children \(publishing.service.gov.uk\)](https://publishing.service.gov.uk). This must be reviewed every term and any concerns about the child's behaviour recorded, as well as how the child is being supported to improve their behaviour and reduce the likelihood of suspension or exclusion.
- 4.6.6. Where previously looked-after children face the risk of being suspended or excluded, the academy should engage with the child's parents and the academy's DT. The academy may also seek the advice of the VSH on strategies to support the child. Further information can be found in the [guidance for the designated teacher for looked-after and previously looked-after children](#).

## 5. The principal's duty to inform parties about a suspension or exclusion

*NB: Detailed guidance, wording and template forms and letters are available separately for academies via [OATnet](#) and [GovernorHub](#).*

## 5.1. Duty to inform parents about a suspension or exclusion

- 5.1.1. To ensure that a child receives the correct support and protection during a suspension or exclusion, it is important that those responsible for their care are promptly informed when suspension or exclusion occurs, or where there is a risk of them occurring. As well as communicating with the child where relevant throughout the suspension or exclusion process, this section sets out how and when academies should and must share information with parents, social workers, VSH, local authorities, and its LGB.
- 5.1.2. Whenever a principal suspends or excludes a child they must, without delay, notify parents of the period of the suspension or exclusion and the reason(s) for it.
- 5.1.3. They must also, without delay, after their decision, provide parents with the following information in writing:
- The reason(s) for the suspension or exclusion
  - The period of suspension or, for an exclusion, the fact that it is permanent
  - The parents' right to make representations about the suspension or exclusion to the LGB and how the child may be involved in this
  - How any representations should be made; and
  - Where there is a legal requirement for the LGB to consider the suspension or exclusion, that parents and the child have a right to attend a meeting, to be represented at that meeting (at their own expense) and to bring a friend.
- 5.1.4. Written notification of the information above can be provided by delivering it directly to the parents, leaving it at their usual or last known home address, or posting it to that address. Notices can be given electronically if the parents have given written agreement for this kind of notice to be sent in this way. Section [572 Education Act 1996](#).
- 5.1.5. Where a suspended or excluded child is of compulsory school age, the principal must also notify the child's parents of the days on which they must ensure that the child is not present in a public place at any time during school hours.
- 5.1.6. These days are the first five school days of a suspension or exclusion (or until the start date of any full-time alternative provision or the end of the suspension where this is earlier). Any parent who fails to comply with this duty without reasonable justification, commits an offence and may be given a fixed penalty notice or be prosecuted. The principal must notify the parents of the days on which their duty applies without delay and, at the latest, by the end of the afternoon session on the first day of the suspension or exclusion. Sections 103 to 105 [Education and Inspections Act 2006](#) and regulations made under these sections.
- 5.1.7. 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 child during the suspension or exclusion

- The start and finish times of any such provision, including the times for morning and afternoon sessions where relevant
  - The address at which the provision will take place
  - Any information required by the child to identify the person they should report to on the first day.
- 5.1.8. Where this information on alternative provision is not reasonably ascertainable by the end of the afternoon session on the first day of the suspension or exclusion, it may be provided in a subsequent notice, but it must be provided without delay and no later than 48 hours before the provision is due to start. The only exception to this is where alternative provision is to be provided before the sixth day of a suspension or exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent.
- 5.1.9. The information for parents must be provided in writing but can be provided by any effective method, ie. email, or text if they have agreed in advance.
- 5.1.10. If a child is suspended again following their original suspension, or is subsequently excluded, the principal must inform parents and where relevant, the child's social worker or local authority if the child has an EHCP, without delay and issue a new exclusion notice to parents and the social worker.

## 5.2. Informing parents about a suspension or exclusion

- 5.2.1. Notifications to parents should be in person or by telephone in the first instance as this would allow parents to ask any initial questions or raise concerns directly with the principal. Principals should consider the following:
- 5.2.1.1. Has the academy spoken to the parents (and when appropriate, the child's social worker) to ensure they fully understand the type/scale of the incident?
  - 5.2.1.2. Has the academy considered how to communicate accessibly and clearly, including whether parents may have particular communication needs relating to a disability or having English as an additional language (EAL)?
  - 5.2.1.3. Has the academy provided sufficient details in the suspension or exclusion notice letter on the reasons for the suspension or exclusion?
  - 5.2.1.4. Does the notice contain all the required information as set out in the LGB and LA duties to arrange education for excluded children section of this policy?
  - 5.2.1.5. Has the academy informed parents (and when appropriate, the child's social worker or the local authority if a child has an EHCP) whether their child will be able to sit any national curriculum test(s) or public examination(s) occurring during the suspension or exclusion?
  - 5.2.1.6. When several suspensions have been issued in a term, has the academy informed parents of their right of representation to the LGB?

- 5.2.2. When notifying parents about a suspension or exclusion, the principal will set out what arrangements have been made to enable the child to continue their education prior to the start of any alternative provision or the child's return to the academy, in line with legal requirements and guidance.
- 5.2.3. Methods of notifications to parents and any other relevant party may include email or text message, giving the notice directly to the parents, or sending the information home with the suspended or excluded child. Where information is sent home with the child, the principal should send a duplicate copy by an alternative method or confirm that the information has been received.
- 5.2.4. Where a suspension or exclusion would result in a child missing a public examination, the principal must highlight this in the communication and provide clear guidance and information on what alternative arrangements will be made. The notification to parents should also explain that the LGB or Chair will meet to consider reinstatement prior to the date of the public examination.
- 5.2.5. Full and detailed guidance including template letters to parents for the entire process are available for academies via [OATnet](#) and [GovernorHub](#). Principals **MUST** ensure local information is included where indicated/relevant.

### 5.3. Informing social workers and virtual school heads about a suspension or exclusion

- 5.3.1. Information sharing is vital in safeguarding children and promoting their welfare, including their educational outcomes. OAT academies are proactive in sharing information as early as possible to help identify, assess, and respond to risks or concerns about the safety and welfare of children. [Keeping children safe in education](#) and [Working Together to Safeguard Children \(2018\)](#) set out the requirements for information sharing in more detail.
- 5.3.2. Whenever a principal suspends or excludes a child they will, without delay, after their decision, also notify the social worker, if a child has one, and the VSH, if the child is a LAC, of the period of the suspension or exclusion and the reason(s) for it.
- 5.3.3. Both the social worker and/or VSH, must be informed when an LGB meeting/panel is taking place, in order to share information. The social worker and/or the VSH must be invited to attend the meeting, should they wish to do so.
- 5.3.4. Full and detailed guidance including template letters on informing social works and VSHs is available for academies via [OATnet](#) and [GovernorHub](#).

### 5.4. Informing the LGB about a suspension or exclusion

- 5.4.1. The principal must, without delay, notify the LGB's designated panel of:
- Any exclusion (including where a suspension is followed by a decision to exclude the child)
  - Any suspension or exclusion which would result in the child being suspended or excluded for a total of more than five school days (or more than ten lunchtimes) in a term; and

- Any suspension or exclusion which would result in the child missing a public examination or national curriculum test.
- 5.4.2. When removing a child from the academy roll, the LGB must ensure this is done under the circumstances prescribed by the Education (Pupil Registration) (England) Regulations 2006, as amended. If applicable, the child's name should be removed from the roll at the appropriate time.
- 5.4.3. Full and detailed guidance on establishing, conducting, clerking and reporting on the actions of a Suspension and Exclusions Committee is available for academies via [OATnet](#) and [GovernorHub](#).

## 5.5. Informing the local authority about a suspension or exclusion

- 5.5.1. The local authority must be informed without delay of all academy suspensions and exclusions regardless of length.
- 5.5.2. For exclusions, if the child lives outside the local authority area in which the academy is located, the principal must also notify the child's 'home authority' of the exclusion and the reason(s) for it without delay. The principal must also inform the LGB once per term of any other suspensions of which they have not previously been notified.
- 5.5.3. Notifications must include the reason(s) for the suspension or exclusion and the duration of any suspension or, in the case of exclusion, the fact that it is permanent. The local authority may reasonably wish to request this information in a standardised format.
- 5.5.4. Full and detailed guidance on notifying the local authority is available for academies via [OATnet](#) and [GovernorHub](#).

## 6. The LGB and LA's duties to arrange education for suspended or excluded children

*Governing boards and local authorities play an important role in ensuring that children who have been suspended or excluded receive a suitable education that facilitates their successful reintegration into education or meets their long-term needs.*

### 6.1. The education of children from the sixth day of a suspension or exclusion

- 6.1.1. For a suspension of more than five school days, the academy must arrange suitable full-time education for any child of compulsory school age. This provision is commonly called alternative provision and must begin no later than the sixth school day of the suspension. Where a child receives consecutive suspensions, these are regarded as a cumulative period of suspension for the purposes of this duty. This means that if a child has more than five consecutive school days of suspension, then education must be arranged for the sixth school day of suspension, regardless of whether this is because of one decision to suspend the child for the full period or multiple decisions to suspend the child for several periods in a row.

- 6.1.2. For exclusions, the local authority must arrange suitable full-time education for the child to begin from the sixth school day after the first day the exclusion took place. The education arranged must be full-time or as close to full-time as in the child's best interests because of their health needs. This will be the child's 'home authority' in cases where the school/academy is in a different local authority area. The school/academy should collaborate with the local authority when the child might be eligible for free home to school travel, arranged by the local authority, to the place where they will be receiving education. [Home-to-school travel and transport - GOV.UK \(www.gov.uk\)](https://www.gov.uk/home-to-school-travel-and-transport).
- 6.1.3. In addition, where a child has an EHCP, the local authority may need to review the plan or reassess the child's needs, in consultation with parents, with a view to identifying a new placement. Section 44 of the Children and Families Act 2014 provides for reviews and reassessments, with further detail in Part 2 of the Special Educational Needs and Disability Regulations 2014.
- 6.1.4. The local authority must have regard to the relevant statutory guidance when carrying out its duties in relation to the education of looked-after children, which can be found here: [Promoting the education of looked-after children and previously looked-after children \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/612212/Promoting-the-education-of-looked-after-children-and-previously-looked-after-children.pdf). Where a looked-after child is excluded, the academy should document the provision of immediate suitable education in the child's PEP.
- 6.1.5. Provision does not have to be arranged by either the academy or the local authority for a child in the final year of compulsory education who does not have any further public examinations to sit.

## 6.2. The education of children prior to the sixth day of a suspension or exclusion

- 6.2.1. It is important that the academy helps to minimise the disruption that suspension or exclusion can cause to a child's education. Whilst the statutory duty of governing boards or local authorities is to arrange full-time education from the sixth day of a suspension or exclusion, there is an obvious benefit to the child in starting this provision as soon as possible. In the case of a looked-after child or child with a social worker, the academy and the local authority will work together to arrange alternative provision from the first day following the suspension or exclusion.
- 6.2.2. Where it is not possible, or not appropriate, to arrange alternative provision during the first five school days of a suspension or exclusion, the academy will take reasonable steps to set and mark work for the child. Online pathways such as Google Classroom or Oak Academy may be used but the academy will ensure that the work set is accessible and achievable by the child outside academy.
- 6.2.3. OAT and the local academy's LGB will ensure that there are clear processes in place to comply with its legal duty to arrange suitable full-time educational provision for children of compulsory school age from the sixth consecutive school day of a suspension. This includes:
- Checking that there is a process in place for the LGB to assure itself that the education provided is suitable and full-time
  - Quality assuring provision and ensuring that any previous placements have been evaluated, including support for any SEND the child may have



- Checking whether there is a process in place to monitor the child's attendance and behaviour at the provision
- Checking whether the correct attendance code is being used
- Checking whether the child's child protection file and any other information relevant to the child's safeguarding and welfare has been securely transferred to their new setting as early as possible, in line with [Keeping children safe in education 2021 \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/612222/Keeping_children_safe_in_education_2021.pdf)

## 7. The LGB's duty to consider a suspension or exclusion

### 7.1. LGB's duty

- 7.1.1. The LGB has a key responsibility in considering whether suspended or excluded children should be reinstated. This forms part of their wider role to hold executive leaders to account for the lawful use of suspension or exclusion, in line with the duties set out in law, including equalities duties. [Governance Handbook 2019 \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/612222/Governance_Handbook_2019.pdf)
- 7.1.2. The LGB has a duty to consider parents' representation regarding a suspension or exclusion and guidance for LGBs in considering a suspended or excluded child's reinstatement, is provided in detail via [OATnet](https://www.oat.net) and [GovernorHub](https://www.governorhub.co.uk). Section [51A Education Act 2002](https://www.legislation.gov.uk/ukpga/2002/51/section/51A) and regulations made under that section, as well as the [School Governance \(Roles, Procedures and Allowances\) \(England\) Regulations 2013](https://www.legislation.gov.uk/uksi/2013/1445/section/95) applies to paragraphs 95 to 105.
- 7.1.3. Where children may miss a public examination or national curriculum test if they are suspended or permanently excluded; there is no automatic right for a suspended or excluded child to take a public examination or national curriculum test on the academy's premises. The LGB must consider whether it would be appropriate to exercise its discretion to allow a suspended or excluded child onto the premises for the sole purpose of taking the examination or test or whether this could be facilitated in another way. The LGB must, so far as is reasonably practicable, consider and decide on the suspension or exclusion before the date of the examination or test.

### 7.2. Social Workers

- 7.2.1. It is likely that children with a social worker have experienced or are experiencing adversity or difficulties. Social workers can provide important information that helps the LGB understand the experiences of a child and their welfare.
- 7.2.2. Social workers should, as far as possible, attend the LGB's exclusion meeting to share information. This should include helping to identify how the child's circumstances may have influenced the circumstances of the child's suspension or exclusion and ensuring that the child's safeguarding needs, welfare and risks are taken into account.



### 7.3. Virtual School Head (VSH)

- 7.3.1. The VSH should, as far as possible, attend the LGB meeting to share information where the child is a looked-after child. This should include helping the LGB to understand the child's background and circumstances. They should also be able to advise the LGB on the possible contribution that the child's circumstances could have made to the suspension or exclusion.

## 8. Independent Review Panel

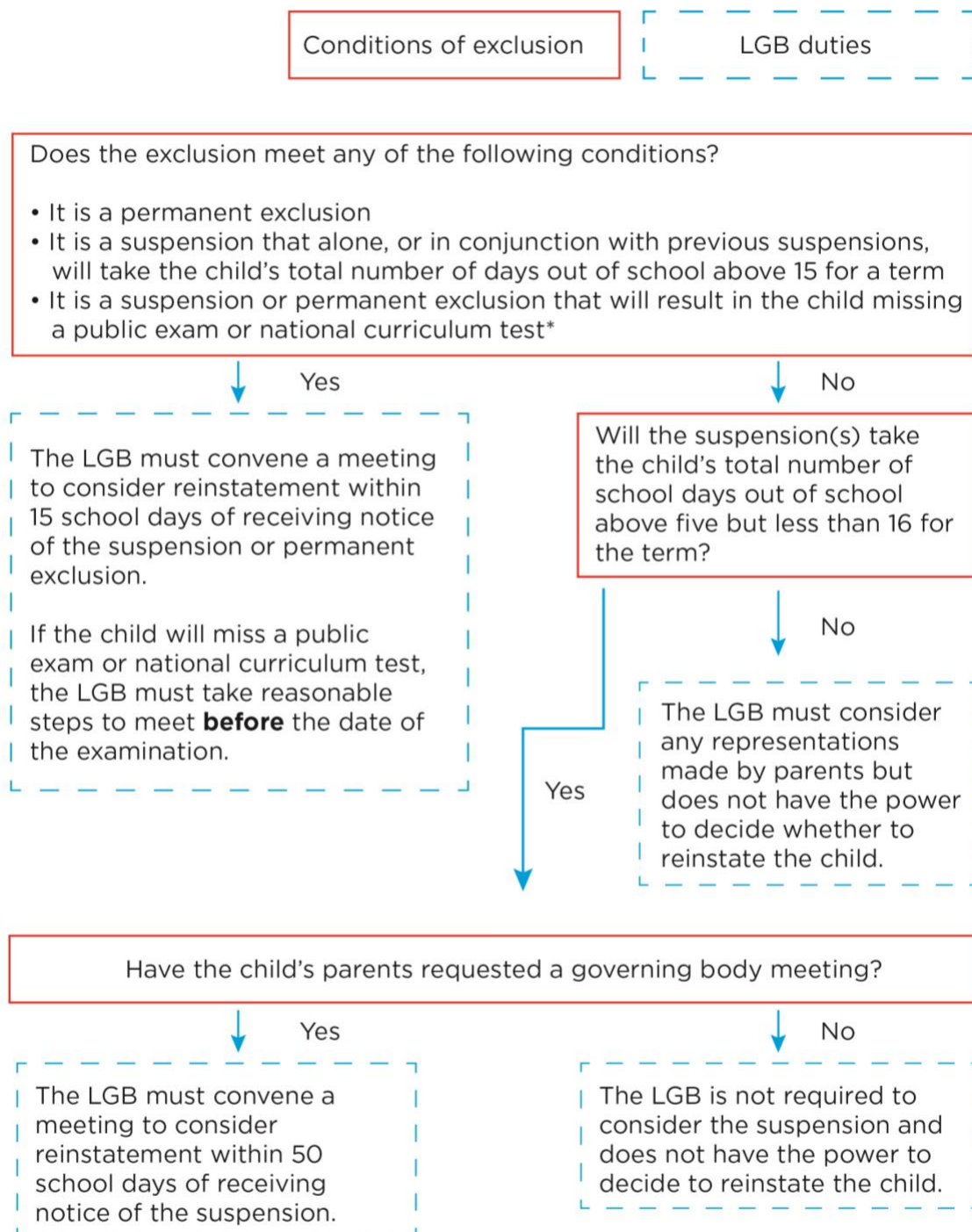
*Independent Review Panels (IRPs) contribute to a robust process of scrutiny to ensure that exclusions are lawful, reasonable, and procedurally fair. This section sets out how and when OAT academies trusts should organise such reviews when requested.*

### 8.1. Arranging a date and venue

- 8.1.1. If applied for by parents within the legal time frame, the academy must, at its own expense, arrange for an IRP hearing to review the decision of the LGB not to reinstate an excluded child.
- 8.1.2. The legal time frame for an application is:
- Within 15 school days of notice being given to the parents by the LGB of its decision not to reinstate an excluded child or
  - Where an application has not been made within this time frame, within 15 school days of the final determination of a claim of discrimination under the Equality Act 2010 in relation to the permanent exclusion. The First-tier Tribunal (Special Educational Needs and Disability) and County Court have the jurisdiction to hear claims of discrimination under the [Equality Act 2010](#) which relate to exclusions.
- 8.1.3. Any application made outside of the legal time frame must be rejected by the academy.
- 8.1.4. The academy must not delay or postpone arranging an IRP where parents also make a claim of discrimination in relation to the exclusion to the First-tier Tribunal (Special Educational Needs and Disability) or the County Court. In such circumstances, the Tribunal or Court may decide to delay its consideration until after the IRP process has been completed.
- 8.1.5. Parents may request an IRP even if they did not make representations to, or attend, the meeting at which the LGB considered reinstating the child.
- 8.1.6. The academy must take reasonable steps to identify a date for the review that all parties, and any SEN expert appointed to give advice in person are able to attend. Where it is not possible to have in person representation by social workers or VSH, written statements should be provided as far as possible. However, the review must begin within 15 school days of the day on which the parent's application for a review was made (panels have the power to adjourn a hearing if required).

- 8.1.7. The venue must be reasonably accessible to all parties. When arranging a venue for the review, the academy must comply with its duties under the [Equality Act 2010](#) and consider what reasonable adjustments should be made to support the attendance and contribution of parties at the review (for example where a parent or child has a disability in relation to mobility or communication that impacts upon his/her ability to attend the meeting or to make representations).
- 8.1.8. The academy must arrange a venue for hearing the review. Whatever the venue, the panel must hold the hearing in private unless the academy or Trust directs otherwise.
- 8.1.9. Where the issues raised by two or more applications for review are the same, or connected, the panel may combine the reviews if, after consultation with all parties, there are no objections.
- 8.1.10. Full and detailed guidance on organising and running IRPs is available for academies via [OATnet](#) and [GovernorHub](#).

## 9. A summary of the LGB's duty to review the principal's exclusion decision



# Appendix 1

## Supporting links from the DfE Guidance

Guidance	Link
Behaviour in Schools	<a href="#">Behaviour in Schools</a>
Governance handbook and competency framework	<a href="#">Governance Handbook</a>
Alternative Provision	<a href="#">Alternative Provision: Statutory guidance for local authorities, as well as headteachers and governing bodies of settings providing alternative provision</a> <a href="#">Education for children with health needs who cannot attend school</a>
Mental health in schools	<a href="#">Mental health and behaviour in schools</a>
Children with Special Educational Needs and Disabilities	<a href="#">SEND Code of Practice: 0 to 25 years</a> <a href="#">Children with special educational needs and disabilities (SEND): Overview</a>
Departmental Advice on attendance	<a href="#">School attendance guidance</a>
Departmental Advice on safeguarding and child protection	<a href="#">Keeping children safe in education</a> <a href="#">Children Missing Education</a> <a href="#">Working Together to Safeguard Children</a>
Departmental Advice on Promoting the education of looked-after and previously looked-after children	<a href="#">Promoting the welfare of looked-after and previously looked-after children</a> <a href="#">Adverse Childhood Experiences training and resources (funded by the Home Office)</a> <a href="#">The designated teacher for looked-after and previously looked-after children</a>
Sharing and publishing information	<a href="#">School to school service: how to transfer information</a> <a href="#">What maintained schools must publish online</a> <a href="#">What academies, free schools and colleges should publish online</a>

## Appendix 2

### Suspension or exclusion evidence pack

The pack will be studied by the panel, the parents, the LA and any other party in relation to the child that has been informed ie social worker, VSH. The academy must supply all the relevant parties with a full copy of the pack ensuring they all include the same information and evidence. Please take care if using acronyms, jargon and redacted text/documents to ensure that the packs are still coherent for all parties. The pack should include:

- Agenda
- Summary of evidence for the suspension or exclusion, in chronological order, including how the child has breached the Behaviour Policy **and** how allowing the child to remain in the academy would harm the safety and welfare of the academy community. This may include photos and witness statements from staff and students where appropriate<sup>12</sup>
- Statement from the child (this should be sought for both one-off serious breaches and persistent disruptive behaviour). Where the child has not given a statement at the point of suspension or exclusion, attempts should be made to get a statement from the child and include it in the pack.
- Behaviour log/attendance record where appropriate<sup>3</sup>
- Correspondence with the parents and local authority outlining the suspension or exclusion, the reason for the decision, and a copy of the letter inviting parents to the suspension or exclusion panel meeting.
- Evidence of support put in place for the child including (but not limited to), reasonable adjustments, interventions, personal support plans, EHCPs and referrals to specialist provision.
- Notes of previous meetings with the child and parents if it is relevant to the suspension or exclusion
- Behaviour Policy
- Suspension and Exclusion Policy
- SEND Policy (if applicable)

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<sup>2</sup> The DfE Guidance states that 'all witness statements should be 'attributed, signed and dated unless the school has good reason to protect the anonymity of the witness, in which case the statement should be dated and labelled'. Where there is a clear, identifiable safeguarding risk to the sharing of written statement from pupils/students due to the identifiability of handwriting, written statements should still be taken and kept but can be typed up, dated, anonymised and labelled appropriately for presentation to parties attending a panel meeting. The panel and clerk can have sight of the original statement if required.

<sup>3</sup> Principals should consider carefully whether including a full behaviour log/attendance record is relevant to the suspension/exclusion. Where the exclusion is a one-off serious breach of the Behaviour Policy, the full behaviour log and attendance record should only be included if it is relevant to the incident/decision making process or will assist the panel in making a decision on the balance of probabilities.