



Behaviour Policy

Signature of Headteacher:

Signature of Chair of Governing Board:

Reviewed: 29th November 2023

Adopted: 6th December 2023

Policy Statement

At Marsh Hill Primary School, we recognise that positive behaviour is dependent upon clear lines of communication and responsibility between all members of our school community: staff, pupils, parents and Governors.

Aims

It is the intention of Marsh Hill Primary School to ensure that every member of our community is treated fairly and feels valued and respected. We are a caring community that recognizes that the values we promote within the school play an important part in the spiritual, moral and social development of the children for whom we hold a responsibility. The school recognises and promotes good behaviour as it is this that will develop an ethos of kindness and cooperation. As such, this policy is designed to encourage good behaviour, rather than merely deter misbehaviour and is aimed at improving educational outcomes for all pupils by promoting and supporting their engagement in education. We aim to develop a positive focus on improving children's engagement, motivation and well-being. For this reason, it is important to provide clear guidelines for a consistent and coherent approach to behaviour and discipline within the school.

The school recognises and promotes good behaviour, as it believes that this will develop an ethos of kindness and cooperation. The school's behaviour policy is therefore designed to support the way in which all members of the school can work together in a supportive way. It aims to promote an environment in which everyone feels happy, safe and secure. We believe that self-esteem affects all thinking and behaviour and impacts on learning and performance. We aim to provide positive everyday experiences so that our children are self-confident and secure with a strong sense of belonging that makes it more likely for them to reach their full potential.

Marsh Hill also recognises its legal duty under the Equality Act 2010 to prevent pupils with protected characteristics from being at a disadvantage. Consequently, our approach to managing behaviour may be differentiated to cater for the needs of the individual pupil including those children with additional needs.

This policy has been developed through a consultative process involving children, parents staff and governors. It therefore represents a common and agreed view. To ensure that this continues to be the case it will be reviewed annually and comments will be regularly invited through parent surveys, the newsletter and members of the school council, staff and governors.

Values

The pastoral care of all children attending Marsh Hill is the responsibility of every adult in the school. Although a class teacher has responsibility for his/her own class, pastoral/disciplinary responsibility is not confined to that class. All adults are expected to take a real interest in all pupils.

As a school, we have identified a clear set of 22 values that serve as the cornerstone of everything we do at Marsh Hill. Assemblies have a focus on the identified value of the month. Children get the opportunity to discuss the identified value in class and are rewarded by their teachers when they demonstrate applying the value in school. (Appendix 1).

Legislation and statutory requirements

This policy is based on advice from the Department of Education on:

- Behaviour and discipline in schools
- Searching, screening and confiscation at school
- Education Act 2002
- Education and Inspections Act 2006
- The Equality Act 2010
- Use of reasonable force in schools
- Supporting pupils with medical conditions in school
- Special Educational Needs and Disability (SEND) Code of Practice 2014

Roles / Responsibilities

The Governing Body will:

- Support with the implementation of the policy
- Provide advice to the Head Teacher regarding disciplinary issues and exclusions •
Review the effectiveness of the policy
- Determine the school's written statement of behaviour principles

The Head Teacher will:

- Implement the positive behaviour policy, reinforcing the need for consistency throughout the school
- Report to governors regarding the effectiveness of the policy
- Meet with parents/carers of challenging children
- Support staff when dealing with challenging behaviour
- Ensure the health and safety and welfare of the children
- Praise and encourage positive behaviour
- Ensure the school environment encourages positive behaviour

- Allow children to express their views and feelings and seek to extend their understanding of relationships through discussion
- Respond to children's needs swiftly
- Observe children and inform class teachers and/or the DHT/AHT for Phase about specific incidents or trends in behaviour
- Encourage respectful attitudes for others, the environment, property and equipment

The role of Lunchtime Supervisors:

- Being friendly and approachable
- Being aware of relevant and accepted expectations and reinforcing them
- Being consistent and fair when giving rewards or imposing agreed sanctions
- Knowing the children as individuals, recognising their characters and taking this knowledge into account when working with them
- Support children's development of behaviour skills and self-regulation
- Having high expectations observing children and informing class teachers and/or the head teacher about specific incidents or trends in behaviour
- Encouraging respectful attitudes for others, the environment, property and equipment

Pupils are expected to behave in such a manner that allows teachers to teach and children to learn:

- Follow school rules and expectations at all times
- Listen to adults — staff, parents, visitors etc. and show respect
- Show respect for the learning environment by keeping rooms and corridors tidy, clearing away at the end of lessons and tidying when asked to do so
- Promote the good reputation of the school in the community
- Speak to an adult if they are upset or worried about anything.

Parents are expected to:

- Support their child in adhering to school expectations
- Support the school's behaviour policy by talking to their children about behaviour in school
- Encourage respect for their child's school, staff and peers
- Show respect for Anti-Bullying policy
- Keep the school informed about any issues or changes in circumstances that may affect their child's learning or behaviour.
- Behave in an acceptable manner on the school premises and in the immediate vicinity of the school
- Ensure that staff deal effectively with poor behaviour, and monitor how staff implement the policy to ensure consistency

- Ensure staff are sufficiently trained to manage pupil behaviour in line with this policy

Essential to good behaviour management is the relationship between the class teacher and the children in the class. Good relationships and consistency with teaching assistants and visitors will enhance this. In order to promote positive behaviour teachers are expected to:

- Show respect and promote positive behaviour
- Listen to pupils
- Speak calmly and authoritatively
- Treat pupils fairly
- Help pupils manage their emotions and behaviour
- Support and encourage the school uniform code of the school
- Challenge unacceptable behaviour
- Keep parents and carers informed about behaviour issues and / or good behaviour
- Model positive behaviour, high standards of presentation, respect and learning behaviours
- Implement the behaviour policy consistently and adhere to procedures when dealing with behaviour issues
- Provide a personalised approach to the specific behavioural needs of particular pupils
- Be organised and prepared for every lesson
- Have clear routines that have been explained to, and understood by the children

The senior leadership team will support staff in responding to behaviour incidents.

The role of the Teaching Assistants:

- Being aware of relevant and accepted expectations and reinforcing them
- Being consistent and fair when giving rewards and relevant and proportionate when sanctions
- Knowing the children as individuals, recognising their characters and taking this knowledge into account when working with them
- Being aware of procedures for giving directions about tasks and reinforcing them
- Teaching children about behaviour skills and self-regulation
- Re-assuring, re-focusing and reaffirming tasks set for children
- Fulfilling roles identified within SEMH plans for children
- Having high expectations of children
- Providing opportunities for children to develop different kinds of relationships with one another by encouraging involvement in, for example, playground games and conversation.

Rewards

Good work or behaviour will be rewarded through:

- Verbal praise
- House points (as a guide 3 house points should be awarded for exemplary work or behaviour, 2 house points for good work or behaviour and 1 house point for acts of kindness or good manners)
- Individual house point charts are on display in each classroom
- House point certificates are awarded at the end of each half term to pupils who have achieved the target number of house points (for example, 60 for EYFS/KS1 and 100 for KS2)
- Each classroom displays a visual representation of whole class positive behaviour
- Name being moved to the Gold Star (to reward those pupils who have demonstrated exemplary behaviour and attitudes to learning)
- Certificates awarded in Phase Merit Assemblies
- Head Teacher letter is sent home (pupils are nominated for this by their Class Teacher/Teaching Assistant).
- Pupils can be sent to the AHT/DHT/HT to receive a SLT sticker to acknowledge their unique positive achievement
- Pupils receive a 'Spero Meliora' Gold sticker (Latin meaning '*I hope for better things*') for an exemplary piece of learning

Sanctions

Throughout the year, pupils and parents will be reminded about the school rules and each class will negotiate a set of agreed class rules. Pupils and parents will be reminded that failure to meet the school and class rules will lead to sanctions; these sanctions are hierarchical and are designed as a positive step towards more socially acceptable behaviour.

We recognise that there will be problems of misbehaviour for many reasons. We will always try to understand the reasons for the misbehaviour, so that we can deal with it most effectively. When dealing with problems, it is important to label the problem and not the child. BE POSITIVE. (It is better to say "I know that you know how to behave" rather than "You are naughty").

It is important to have a consistent policy for dealing with misconduct. If there is a problem with a child's behaviour, then the adult dealing with it should first ask the child what he/she is doing, establish if it is the class or school rules, and if it is then use the appropriate sanction.

Examples of misconduct:

- Not settling to a task
- Not listening attentively
- Distracting others by tapping rulers, pencils etc
- Being careless with equipment.

- Refusing to collaborate or share
- Interfering with the work of others

The sanctions applied to the above forms of misconduct will be addressed through a staged referral system. The order of consequences for the above misconduct is:

- Non-verbal warning
- Verbal praise of another child to underline the behaviour expected
- Verbal warning (unrecorded) in order to allow the child the opportunity to change their behaviour
- Second verbal warning (5 minutes of reflection in class)
- Third verbal warning (5 minutes of reflection in parallel class)
- Records of misconduct are to be recorded using the online programme 'Iris Adapt'
- Loss of part of playtime — a maximum of 10 minutes— (please remember that this must always be supervised)
- Referral to AHT/DHT for Phase who will decide upon appropriate sanction (e.g. loss of lunchtime)
- A pupil who has incurred a loss of playtime or lunchtime will have a restorative session with a member of the Pastoral Team the following day
- Class teacher to discuss behaviour with Parent/Carer
- If, following the Class teacher's discussion with parents, behaviour does not improve, the DHT/AHT for Phase will contact Parent/Carers to meet with Class teacher and DHT/AHT for Phase. This meeting will be followed up with a letter from the DHT/AHT for Phase outlining briefly what was discussed and agreed in the meeting (Stage 1)
- If the child's misbehaviour continues following the meeting/letter to parents, then parents will be invited to a further meeting with the Class teacher and DHT/AHT for Phase where they will form a Behaviour Contract/ Pledge (stage 2). This contract/pledge (refer to Appendix 2) will be monitored for four weeks through a daily behaviour chart. If a child's behaviour improves at stage 2, then at a later date, their behaviour deteriorates again, school may move to Stage 3 and bypass Stages 1 and 2 as this is repeated poor behaviour.
- After four weeks of the implementation of the contract/pledge, school will write to the parents again to inform them whether or not behaviour has improved. If the behaviour is better, then school will simply continue to monitor behaviour.
- If a child's behaviour still continues to cause a concern, school will devise an Individual Behaviour Plan (IBP— Stage 3) with targets which will be discussed with the child and their parents (refer to Appendix 3). These targets will be set by the class teacher, SENDCo and/or a member of SLT. If it is felt that pastoral support is needed, then the DHT/AHT for Phase will agree this with the Pastoral Team
- If it is felt at any stage in this process that external support and advice is needed, then the school may involve the support/advice of external agencies (e.g. Family Support, Behaviour School Support Educational Psychologist)

- The IBP will have set targets which will show how the behaviour can be improved and how this will be monitored
- Targets will be specifically personal to the child with praise and rewards built in to identify success
- A review of the targets will take place on a six-weekly basis. Parents will be involved in the review process.

We do not wish to exclude any child from school, but sometimes this may be necessary. Therefore, when all reasonable strategies have been attempted and have failed (including internal sanctions and the application of any available support), exclusion is the next option for the school.

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 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.

Exclusions may occur in the event of more serious misconduct such as:

- Any form of bullying*
- Children who repeatedly violate the Behaviour Policy
- Persistent/ repeated breaches of school/ class rules.
- Racist, sexist, homophobic or discriminatory behaviour.
- Physical assault such as hitting, kicking, biting, pushing.
- Possession of any prohibited items such as knives, weapons, drugs etc.,
- Sexual assault (any unwanted sexual behaviour that causes humiliation, pain, fear or intimidation)
- Use of intimidation / threatening behaviour
- Exclusions from lunchtimes will also be considered, if children are repeatedly violating the Behaviour Policy during this time

*Marsh Hill subscribes to the Anti-Bullying Alliance (ABA) definition of bullying. The Anti-Bullying Alliance and its members have a shared definition of bullying based on research from across the world over the last 30 years. They define bullying as:

The repetitive, intentional hurting of one person or group by another person or group, where the relationship involves an imbalance of power. It can happen face to face or online.

Malicious Allegations

Where a pupil makes an accusation against a member of staff and that accusation is shown to have been malicious, the Head Teacher will discipline the pupil in accordance with this Policy. Please refer to our Safeguarding Policy for more information on responding to allegations of abuse. The Head Teacher will also consider the pastoral needs of staff accused of misconduct.

Physical Restraint

In some circumstances, staff may use reasonable force to restrain a pupil to prevent them:

- Causing disorder
- Hurting themselves or others
- Damaging property

Incidents of physical restraint must:

- Always be used as a last resort
- Be applied using the minimum amount of force and for the minimum amount of time possible
- Be used in a way that maintains the safety and dignity of all concerned
- Never be used as a form of punishment
- All incidents of physical restraint are reported to parents and procedures are followed as laid down in our Care and Control Policy.

Confiscation

Any prohibited items (Appendix 5) found in pupils' possession will be confiscated. These items will not be returned to pupils. We will also confiscate any item, which is harmful or detrimental to school discipline. These items will be returned to parents after discussion with Senior Leaders if appropriate. Searching and screening pupils is conducted in line with the Department of Education guidance on searching, screening and confiscation.

Reviewing the Policy

The Senior Leadership Team and the Pastoral Team meet each term to review behaviour in school and make recommendations. As part of the process, the Behaviour Policy will be reviewed. Any recommendations will need the Head Teacher's approval and then for final approval from the Governing Board. The Governing Board reviews this policy every year. The Governors may, however, review the policy earlier than this if the government introduces new regulations, or if the Governing Board 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 Board 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.

Appendix 1

The 22 Values are taught on a two-year rolling programme, and are outlined below:

Responsibility	Determination
Love	Kindness
Caring	Tolerance
Happiness	Forgiveness
Appreciation	Honesty
Understanding	Cooperation
Friendship	Hope
Respect	Freedom
Thoughtfulness	Courage
Peace	Generosity
Unity	Responsibility

Appendix 2

Behaviour Pledge/Contract

This contract is to say that I, _____ , agree to do the following things:

1. In I will not hurt other children with my hands or feet
2. I will not disturb the learning of others in class by making noises or distracting them
3. I will tell my teacher if I am angry or upset

These are example pledges

Signed (Pupil) _____

Signed (Class Teacher) _____

Signed(Parent) _____

Signed(Phase Leader) _____

Date: _____

Review Date: _____

Appendix 3

Stage 2: Behaviour plan

To be written in consultation with parents and the student.

Plan number:		List those who attended below:
Date:		

Assess

What are the behaviours that are causing concern? List a maximum of 3. Be specific and Indicate how often they occur (e.g. once a week, twice a day).	What do you think might be causing those behaviours?

Whole class support:

Write up to three targets for the student to work towards. Targets should be objective and measurable.	What whole class strategies will be implemented to support the student? (Maximum of 2) Strategies must be practicably implemented by in the context of a 1:30 adult: student ratio.
	What strategy will be implemented at home to support the student?

Group (adult led Interventions):

What will be the purpose of the intervention (e.g. improve interpersonal skills, emotional self regulation)	
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How will the success of the intervention be measured?	
Which adult will: run the intervention? Where will: It be run? When (day and time)? How long will the intervention run for?	

Environmental changes

What environmental changes will be made to support the student?

Other support

If necessary, write any further support to be offered below.

Support	Purpose

Impact measurement

How will you measure the impact of the intervention? Incorporate an objective, numeric measure.

Review Date:	
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Review date: No longer than one term from today	
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Indicate progress towards each target

	Not achieved	Some progress	Achieved	Parental views
1.				
2				
3				

Attach student views to this plan.

What impact did the plan have on the behaviours specified? Think about the frequency and severity of the behaviours.	What should happen next?
	Plan was effective student now requires less intensive support (write plan at Stage 1)
	Plan was effective — continue support at current level (renew plan or write new plan at this level)
	Student requires additional support (write plan at Stage 3)

Appendix 4

FIXED TERM OR PERMANENT EXCLUSIONS

Department for Education: Guidance from maintained schools, Academies and pupil referral units 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 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).

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: Teachers 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 fulltime 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 Board 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 of receiving notice of the exclusion if:

- the exclusion is permanent;
- It 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 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 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

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 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 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 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 advance of the review. These papers must include:

- a) the 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 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

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 excision.

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

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1181584/Suspension_and_permanent_exclusion_guidance_september_23.pdf

Appendix 5

Confiscation of Prohibited Items

A search for prohibited Items can, and will, only be undertaken where school have 'reasonable grounds' for suspecting a pupil may have a prohibited item in their possession.

For example:

- Hearing other pupils talking about the prohibited item; or
- Noticing a pupil behaving in a way that causes suspicion that they are concealing a prohibited item
- Prohibited items are:
 - Knives or weapons
 - Alcohol
 - Illegal drugs
 - Stolen items
 - Tobacco and cigarette papers
 - Fireworks
 - Pornographic Images

Any article that the member of staff reasonably suspects has been, or is likely to be, used to:

- Commit an offence
- Cause personal injury or damage to property

You can also search for any item that's:

- Banned by your school's rules, and
- Been identified in the rules as an item which may be searched for

Only the Head Teacher or a member of school staff authorised by them can search without consent.