



**EMPOWER**  
LEARNING ACADEMY TRUST

# **Exclusion Policy**

## **March 2021**

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## 1. Rationale

Our Trust aims to ensure that:

- The exclusions process is applied fairly and consistently
- The exclusions process is understood by trustees, local governance committee members, staff, parents and pupils
- Pupils in school are safe and happy
- Pupils do not become NEET (not in education, employment or training)

## 2. Legislation and statutory guidance

This policy is based on statutory guidance from the Department for Education: [Exclusion from maintained schools, academies and pupil referral units \(PRUs\) in England](#).

It is based on the following legislation, which outline schools' powers to exclude pupils:

- Section 52 of the [Education Act 2002](#), as amended by the [Education Act 2011](#)
- [The School Discipline \(Pupil Exclusions and Reviews\) \(England\) Regulations 2012](#)
- Sections 64-68 of the [School Standards and Framework Act 1998](#)

In addition, the policy is based on:

- Part 7, chapter 2 of the [Education and Inspections Act 2006](#), which looks at parental responsibility for excluded pupils
- Section 579 of the [Education Act 1996](#), which defines 'school day'
- 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](#)

- **Appendix 3** - This temporary variation in the school exclusion process during the coronavirus (COVID-19) outbreak remains in force for as long as Government guidelines are such that in-person hearings and meetings are deemed a risk to health. The variation will be reviewed at least monthly and if external guidance is published.

This policy complies with our funding agreement and articles of association.

### **3. The decision to exclude**

Only the headteacher, or acting headteacher, can exclude a pupil from school. A permanent exclusion will be taken as a last resort.

A decision to exclude a pupil will be taken only:

- In response to serious or persistent breaches of the school's behaviour policy, and
- Where allowing the pupil to remain in school would seriously harm the education or welfare of others

Before deciding whether to exclude a pupil, either permanently or for a fixed period, the headteacher will:

- Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked
- Allow the pupil to give their version of events
- Consider if the pupil has special educational needs (SEND)

### **4. Definition**

For the purposes of exclusions, school day is defined as any day on which there is a school session. Therefore, INSET or staff training days do not count as a school day.

### **5. Roles and responsibilities**

#### **5.1 The headteacher**

##### **Informing parents**

The headteacher will immediately provide the following information, in writing, to the parents of an excluded pupil:

- The reason(s) for the exclusion
- The length of a fixed-term exclusion or, for a permanent exclusion, the fact that it is permanent
- Information about parents' right to make representations about the exclusion to the governing board and how the pupil may be involved in this
- Where there is a legal requirement for the governing board to meet to consider the reinstatement of a pupil, and that parents have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend

The headteacher will also notify parents by the end of the afternoon session on the day their child is excluded that for the first 5 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 a good reason. Parents may be given a fixed penalty notice or prosecuted if they fail to do this.

If alternative provision is being arranged, the following information will be included when notifying parents of an exclusion:

- The start date for any provision of full-time education that has been arranged
- 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 pupil to identify the person they should report to on the first day

Where this information on alternative provision is not reasonably ascertainable by the end of the afternoon session, it may be provided in a subsequent notice, but it will be provided 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 an exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent.

### **Informing the Local Governance Committee and Local Authority**

The headteacher will immediately notify the CEO, the Chair of the Local Governance Committee and the Local Authority (LA) of:

- A permanent exclusion, including when a fixed-period exclusion is made permanent
- Exclusions which would result in the pupil being excluded for more than 5 school days (or more than 10 lunchtimes) in a term
- Exclusions which would result in the pupil missing a public examination

For a permanent exclusion, if the pupil lives outside the LA in which the school is located, the headteacher will also immediately inform the pupil's 'home authority' of the exclusion and the reason(s) for it without delay.

For all other exclusions, the headteacher will notify the Trust Board, Local Governance Committee and LA once a term.

### **5.2 The Local Governance Committee**

Responsibilities regarding exclusions is delegated to the Local Governance Committee.

The Local Governance Committee has a duty to consider the reinstatement of an excluded pupil (see section 6).

Within 14 days of receipt of a request, the Local Governance Committee will provide the secretary of state with information about any exclusions in the last 12 months.

For a fixed-period exclusion of more than 5 school days, the Local Governance Committee will ensure that suitable full-time education is arranged for the pupil. This provision will begin no later than the sixth day of the exclusion.

Provision does not have to be arranged for pupils in the final year of compulsory education who do not have any further public examinations to sit.

### **5.3 The LA**

For permanent exclusions, the LA is responsible for arranging suitable full-time education to begin no later than the sixth day of the exclusion.

## 6. Considering the reinstatement of a pupil

The Local Governance Committee will consider the reinstatement of an excluded pupil within 15 school days of receiving the notice of the exclusion if:

- The exclusion is permanent
- It is a fixed-term exclusion which would bring the pupil's total number of school days of exclusion to more than 15 in a term
- It would result in a pupil missing a public examination

If requested to do so by parents, the Local Governance Committee will consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion if the pupil would be excluded from school for more than 5 school days, but less than 15, in a single term.

Where an exclusion would result in a pupil missing a public examination, the Local Governance Committee will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the Local Governance Committee will consider the exclusion and decide whether or not to reinstate the pupil.

The Local Governance Committee can either:

- Decline to reinstate the pupil, or
- Direct the reinstatement of the pupil immediately, or on a particular date

In reaching a decision, the Local Governance Committee will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the headteacher followed their legal duties. They will decide whether or not a fact is true 'on the balance of probabilities', which differs from the criminal standard of 'beyond reasonable doubt', as well as any evidence that was presented in relation to the decision to exclude.

Minutes will be taken of the meeting, and a record of evidence considered kept. The outcome will also be recorded on the pupil's educational record. Please see Appendix 1 – Governors' Permanent Exclusion Panel Meeting Protocol

The Local Governance Committee will notify, in writing, the headteacher, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the Local Governance Committee decision will also include the following:

- 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 date by which an application for an independent review must be made
  - The name and address to whom an application for a review should be submitted
  - That any application should set out the grounds on which it is being made and that, where appropriate, reference to how the pupil's SEND are considered to be relevant to the exclusion
  - That, regardless of whether the excluded pupil has recognised SEND, parents have a right to require the Academy Trust to appoint an SEND expert to attend the review
  - Details of the role of the SEND expert and that there would be no cost to parents for this appointment
  - That parents must make clear if they wish for an SEND expert to be appointed in any application for a review
  - That parents may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents may also bring a friend to the review

- That if parents believe that the exclusion has occurred as a result of discrimination, they may make a claim under the Equality Act 2010 to the first-tier tribunal (special educational needs and disability), in the case of disability discrimination, or the county court, in the case of other forms of discrimination. A claim of discrimination made under these routes should be lodged within 6 months of the date on which the discrimination is alleged to have taken place

## **7. An independent review**

If parents apply for an independent review, the Academy Trust will arrange for an independent panel to review the decision of the Local Governance Committee not to reinstate a permanently excluded pupil.

Applications for an independent review must be made within 15 school days of notice being given to the parents by the Local Governance Committee of its decision to not reinstate a pupil.

A panel of 3 or 5 members will be constituted with representatives from each of the categories below. Where a 5-member panel is constituted, 2 members will come from the school governors category and 2 members will come from the headteacher category.

- A lay member to chair the panel who has not worked in any school in a paid capacity, disregarding any experience as a school governor or volunteer
- School governors who have served as a governor for at least 12 consecutive months in the last 5 years, provided they have not been teachers or headteachers during this time
- Headteachers or individuals who have been a headteacher within the last 5 years

A person may not serve as a member of a review panel if they:

- Are a member/director of the Academy Trust, or Local Governance Committee of the excluding school
- Are the headteacher of the excluding school, or have held this position in the last 5 years
- Are an employee of the Academy Trust], or the Local Governance Committee, of the excluding school (unless they are employed as a headteacher at another school)
- Have, or at any time have had, any connection with the Academy Trust, school, Local Governance Committee, parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality
- Have not had the required training within the last 2 years (see appendix 2 for what training must cover)

A clerk will be appointed to the panel.

The independent panel will decide one of the following:

- Uphold the Local Governance Committee's decision
- Recommend that the Local Governance Committee reconsiders reinstatement
- Quash the Local Governance Committee's decision and direct that they reconsider reinstatement (only when the decision is judged to be flawed)

The panel's decision can be decided by a majority vote. In the case of a tied decision, the chair has the casting vote.

## **8. School registers**

A pupil's name will be removed from the school admissions register if:

- 15 school days have passed since the parents were notified of the exclusion panel's decision to not reinstate the pupil 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 has been made, the Local Governance Committee will wait until that review has concluded before removing a pupil's name from the register.

Where alternative provision has been made for an excluded pupil and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.

Where excluded pupils are not attending alternative provision, code E (absent) will be used.

## **9. Returning from a fixed-term exclusion**

Following a fixed-term exclusion, a re-integration meeting will be held involving the pupil, parents, a member of senior staff and other staff, where appropriate.

The following measures may be implemented when a pupil returns from a fixed-term exclusion:

- Clear targets set by the member of staff linking to the reason for the fixed term exclusion
- Agreeing a behaviour contract
- Putting a student 'on report'/'target book'/pastoral support plan (PSP)
- Internal isolation

## **10. Monitoring arrangements**

The Deputy Headteacher/Vice-Principal responsible monitors the number of exclusions every term and reports back to the Local Governance Committee They also liaise with the Local Authority to ensure suitable full-time education for excluded pupils.

This policy will be reviewed by the CEO of the Trust every 3 years. At every review, the policy will be shared with the Trust and Local Governance Committee.

## **11. Links with other policies**

This exclusions policy is linked to our:

- Behaviour and Attendance policy
- SEND policy

## Appendix 1:

### Local Governance Committee Permanent Exclusion Panel Meeting Protocol

Written in accordance with the Department for Education's guide to the legislation that governs the exclusion of pupils from: maintained schools; Academy schools / Free Schools; Alternative Provision Academies / Free Schools; and pupil referral units in England from 1 September 2012.

The relevant extract from this guidance relating to the Local Governance Committee's duty to consider exclusion can be found in Appendix 1 of this Protocol.

The Panel will consist of a minimum of 3 non-staff members of the Local Governance Committee (LGC) who have no personal involvement with the excluded student, his/her family or the exclusion itself.

Protocol:

1. Upon their arrival, the student (if accompanying) and parent(s) arrive will be taken to a quiet room with the LA rep (if in attendance).
2. The Clerk will call all parties into the meeting room.
3. The chair of the panel will explain the process and introduce the panel members.
4. The Headteacher will present first on behalf of the Academy. Panel members and parents can then ask questions through the Chair based on the evidence presented.
5. The parents will then present the case for reinstatement. Panel members can ask questions through the Chair in response to the points raised.
6. The Headteacher will be asked to sum up the reasons for the decision to permanently exclude.
7. Parents will be invited to make any final points in summary.
8. Parents, student and Headteacher will be asked to withdraw from the meeting.
9. Panel members discuss the case and determine whether to uphold the decision to permanently exclude or to reinstate the student. This is clerked and recorded.
10. The final decision is communicated to all parties in writing within 5 school days, including the right to appeal.

Appendix 1: *extract from the Department for Education's guide to the legislation that governs the exclusion of pupils from: maintained schools; Academy schools / Free Schools; Alternative Provision Academies / Free Schools; and pupil referral units in England from 1 September 2012.*

6.1 The requirements on a governing body to consider an exclusion:

50. The governing body has a duty to consider parents' representations about an exclusion. The requirements on a governing body to consider an exclusion depend upon a number of factors.

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



52. The governing body must consider the reinstatement of an excluded pupil within 15 school days of receiving notice of the exclusion if:

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

53. If requested to do so by the parents, the governing body 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.

54. Where an exclusion would result in a pupil missing a public examination or national curriculum test there is a further requirement for a governing body, 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 body and must be made aware of this right.

55. The following parties must be invited to a meeting of the governing body 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).

56. The governing body 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 time limits set out above. However, its decision will not be invalid simply on the grounds that it was not made within these time limits.

57. In the case of a fixed period exclusion which does not bring the pupil's total number of days of exclusion to more than five in a term, the governing body must consider any representations made by parents, but it cannot direct reinstatement and is not required to arrange a meeting with parents.

58. Where the governing body 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 SEND).
- 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 body should first seek parental consent and invite the parents to accompany their child to the meeting);
- have regard to their duty to make reasonable adjustments for people who use the school and consider what reasonable adjustments should be made to support the attendance and contribution of parties at the meeting (for example where a parent or pupil has a disability in relation to mobility

or communication that impacts upon their ability to attend the meeting or to make representations); and

- identify the steps they will take to enable and encourage the excluded pupil to attend the meeting and speak on his / her own behalf (such as providing accessible information or allowing them to bring a friend), considering the pupil's age and understanding; or how the excluded pupil may feed in his / her views by other means if attending the exclusion meeting is not possible.

59. Whilst there is no automatic right for an excluded pupil to take an examination or test on the excluding school's premises, the governing body 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.

60. Where the governing body 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.

61. The governing body 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).

62. When establishing the facts in relation to an exclusion decision the governing body 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 body can either:

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

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

64. 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 body.

65. 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.

66. The governing body 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.

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

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

69. In cases where the governing body considers parents' representations but does not have the power to direct a pupil's reinstatement, they should consider whether it would be appropriate to place a note of their findings on the pupil's educational record.

70. Claims of discrimination to the First-tier Tribunal or County Court can be made up to six months after the discrimination is alleged to have occurred. Where practicable, schools should retain records and evidence relating to an exclusion for at least six months in case such a claim is made.

71. 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. Where the pupil resides in a different local authority from the one that maintains the school, the governing body must also inform the pupil's 'home authority'.

72. In the case of a permanent exclusion the governing body'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 – see paragraph 74);

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 SEND expert and that there would be no cost to parents for this appointment;

f) that parents must make clear if they wish for a SEND 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.

- That, in addition to the right to apply for an independent review panel, if parents believe that the exclusion has occurred as a result of discrimination then they may make a claim under the Equality Act 2010 to the First-tier Tribunal (Special Educational Needs and Disability), in the case of disability discrimination, or the County Court, in the case of other forms of discrimination.

- That a claim of discrimination made under these routes should be lodged within six months of the date on which the discrimination is alleged to have taken place, e.g. the day on which the pupil was excluded.

73. The governing body may provide the information in paragraphs 71 and 72 by: delivering it directly to parents; leaving it at their last known address; or by posting it to this address.

74. 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.

75. The governing body should set out the reasons for their decision in sufficient detail to enable all parties to understand why the decision was made.

76. Where relevant, it will be for schools to confirm the details of where the parents' application for an independent review panel should be sent. This is normally the clerk of the independent review panel.

77. In providing details of the role of the SEND expert, the governing body should refer to the statutory guidance provided to SEND experts in paragraphs 155 to 158.

78. Where the governing body decides to uphold an exclusion they should draw the attention of parents to relevant sources of free and impartial information that will allow them to make an informed decision on whether and, if so, how to seek a review of the decision. This information should be included in the letter notifying parents of a decision to uphold an exclusion and should include:

- a link to this statutory guidance on exclusions: exclusion guidance;
- a link to guidance on making a claim of discrimination to the First-tier Tribunal <http://www.justice.gov.uk/tribunals/send/appeals>;
- a link to the Coram Children's Legal Centre: [www.childrenslegalcentre.com](http://www.childrenslegalcentre.com) 08088 020 008; and,
- where considered relevant by the governing body, links to local services, such as Traveller Education Services or the local parent partnership ([www.parentpartnership.org.uk](http://www.parentpartnership.org.uk)).

## **Appendix 2: independent review panel training**

The Academy Trust must ensure that all members of an independent review panel and clerks have received training within the 2 years prior to the date of the review.

Training must have covered:

- The requirements of the primary legislation, regulations and statutory guidance governing exclusions, which would include an understanding of how the principles applicable in an application for judicial review relate to the panel's decision making
- The need for the panel to observe procedural fairness and the rules of natural justice
- The role of the chair and the clerk of a review panel
- The duties of headteachers, governing boards and the panel under the Equality Act 2010
- The effect of section 6 of the Human Rights Act 1998 (acts of public authorities unlawful if not compatible with certain human rights) and the need to act in a manner compatible with human rights protected by that Act

## **Appendix 3: Changes to the school exclusion process during the coronavirus (COVID-19) outbreak**

This guidance describes the temporary changes made in the statutory guidance for the school exclusion process due to coronavirus (COVID-19). The normal arrangements and procedures that must follow a decision to exclude on disciplinary grounds are described in the main policy. They are unchanged except as noted in this guidance.

The term 'governing board' used throughout this guidance means the Local Governance Committee of an academy within our Trust.

### **Important dates**

The temporary arrangements came into force on 1 June 2020 and apply to all exclusions occurring from then until 24 September 2020 (inclusive of those dates), as well as:

- permanent and fixed term exclusions occurring before 1 June 2020 which have not yet been considered by the governing board of the school
- permanent exclusions occurring before 1 June 2020 which have been considered by the governing board, if they have chosen not to reinstate the pupil and the time limit to apply for a review of this decision has not passed
- permanent exclusions occurring before 1 June 2020 where a parent (or pupil aged 18) has requested a review of a governing board's decision, but this has not yet happened

Any exclusions covered by the arrangements will continue to be subject to them until the procedures for scrutiny of the exclusion have been exhausted.

Some of the changes also apply to exclusions that occur from 25 September 2020 to 24 March 2021.

An exclusion should be taken as having 'occurred' on the first day of the exclusion (not the date when the decision to exclude was made or communicated).

### **Remote access meetings**

When governing boards or independent review panels (IRPs) have to meet to consider an exclusion, they can do so via telephone or video-conference software ('remote access') as long as:

- it is not reasonably practicable for the meeting to take place in person, within the usual timescales, due to coronavirus (COVID-19)
- the governing board (or arranging authority, if the meeting is an IRP) is satisfied that:
  - all the participants agree to the use of remote access
  - all the participants have access to the technology which will allow them to hear and speak throughout the meeting, and to see and be seen, if a live video link is used
  - all the participants will be able to put across their point of view or fulfil their function
  - the meeting can be held fairly and transparently via remote access

It is the responsibility of the school governing board (or the arranging authority in the case of an IRP meeting) to make sure these conditions are met before a meeting takes place.

Those who have no intention of taking part in the meeting should not be treated as 'participants' for the purposes of the conditions stated above.

When determining if it's practicable to meet in person the governing board or arranging authority should assess:

- the facts of the case

- the circumstances in which a meeting in person could be expected to take place
- the needs of the intended participants (as far as this is possible)
- the latest public health guidance (including the [guidance for full opening of schools](#))

### **Arranging a remote access meeting**

The governing board or arranging authority should explain the technology they propose to use to participants and should make sure that the participants (particularly pupils and their families) know that they do not have to agree to a meeting to be held via remote access if they do not want to.

They should make families aware that if they do not consent to a remote access meeting then the meeting is likely to be delayed.

Where a parent or pupil has given their agreement for a meeting to be held via remote access, the other participants should accommodate that preference except in exceptional circumstances.

Governing boards, arranging authorities and panel members must comply with relevant equalities legislation and recognise that some participants may find it difficult to participate in a remote access meeting (for example, if someone has a disability or if English is not their first language).

The governing board or arranging authority should take reasonable steps to facilitate a parent, child or young person's access to the technology required.

If a governor, trustee, panel member or other participant requires support to access or use remote access technology, the governing board or arranging authority should facilitate this to ensure the meeting can be held promptly.

### **Fairness and transparency**

The assessment of whether a meeting can be held fairly and transparently via remote access must be made with reference to the facts of each case and cannot be decided by rigidly following a general policy.

If a governing board or arranging authority is not satisfied that a meeting can be held fairly and transparently via remote access, they should consider what reasonable adjustments could be made to surmount this, consulting with parents and pupils to take account of their wishes.

It will only be in rare cases where a governing board or arranging authority conclude that a remote meeting would not be fair and transparent if the participants have understood the implications of a remote access meeting and have given their consent. In such cases, the governing board or arranging authority should explain to the parent and the pupil why this decision has been taken.

### **Running the meeting**

If a meeting is held via remote access, every effort should be made by the chair to check the participants understand the proceedings and can engage with them, to ensure the meeting is conducted fairly.

If, once the meeting starts, the meeting cannot proceed fairly (for example, because a participant cannot access the meeting), the governing board or IRP should adjourn the meeting.

The use of remote access does not alter other procedural requirements that may apply to governing boards, arranging authorities or IRPs. For example, if a parent requests the appointment of a special educational needs (SEND) expert to advise a review panel, the local authority/academy trust must appoint one and cover the cost as normal. Parents may bring a friend or representative, as normal.

Though governing boards and IRPs must consider written representations if they are made, the law does not allow for solely paper-based 'meetings', conducted in writing.

As long as the conditions for a remote access meeting are met, it is possible for some participants to be present in person and for others to join the meeting via remote access. All the participants must have access to technology which will allow them to hear and be heard by others throughout (and to see and be seen throughout, if a live video link is used).

To help meetings run smoothly and ensure they are accessible for participants:

- provide clear instructions to participants about how to join the meeting virtually, and distribute the relevant papers in a timely manner ahead of the meeting
- indicate a named person who participants can contact, with any questions they may have beforehand
- ensure the chair is prepared to explain the agenda at the start of the meeting, and to provide clear guidance on how the meeting will be run, for example:
  - how participants should indicate they wish to speak
  - how any 'chat' functions should be used
  - whether there will be any breaks in proceedings
  - how participants can access advocacy services during the meeting
- consider holding a pre-meeting with attendees to check that the available technology is suitable, and all participants understand how to access the meeting

### **Timescales for meetings of governing boards**

If it has not been reasonably practicable for governing boards to meet in person within the original time limit for a reason related to coronavirus (COVID-19) or remotely for a reason relating to the other conditions for a remote access meeting, the time limit for the meeting will be extended.

To minimise uncertainty for pupils and their families, the governing board should reassess at regular intervals whether it is reasonably practicable to meet, and if it is, should arrange to do so without delay.

There are different timescales for exclusions occurring from 25 September 2020 to 24 March 2021

### **Meetings to consider permanent exclusions, and fixed period exclusions resulting in the pupil missing more than 15 school days in a term**

If a pupil is permanently excluded or receives a fixed period exclusion which results in them having been excluded for 16 or more school days in a term, then the governing board should meet to discuss reinstatement within 15 school days.

The limit will be extended to 25 school days, or as long as reasonably necessary if:

- it has not been reasonably practicable for the governing board to meet face to face within 15 school days for reasons relating to coronavirus (COVID-19)
- it has not been reasonably practicable to meet by way of remote access for a reason relating to the conditions for a remote access meeting

This extension does not apply to exclusions that occur after 24 September 2020.

### **Meetings to consider fixed period exclusions resulting in the pupil missing between 6 and 15 school days in a term**

If a pupil receives a fixed period exclusion which results in them having been excluded for at least 6 school days in a term but not more than 15 school days in that term, and the parent (or pupil, if aged 18 or above) chooses to make representations about the exclusion, then the governing board should meet to discuss reinstatement within 50 school days.

The limit will be extended to 60 days, or as long as reasonably necessary if:

- it has not been reasonably practicable for the governing board to meet face to face within 50 school days for reasons relating to coronavirus (COVID-19)
- it has not been reasonably practicable to meet by way of remote access for a reason relating to the conditions for a remote access meeting

This extension does not apply to exclusions that occur after 24 September 2020.

### **Timescales for applications for independent reviews of exclusions**



Where a governing board declines to reinstate a pupil who has been permanently excluded, parents (or the excluded pupil, if they are 18 years old or above) can apply for a review of the governing board's decision.

For exclusions covered under these arrangements, the deadline for applications has increased to 25 school days from the date on which notice in writing of the governing board's decision is given to parents, or directly to the pupil if they are 18 or above. This change applies to all exclusions which occur between 1 June 2020 and 24 March 2021 (inclusive of those dates).

Schools must wait for the extended period of 25 school days to pass without an application having been made before deleting the name of a permanently excluded pupil from their admissions register, in accordance with the Education (Pupil Registration) (England) Regulations 2006 as amended.

#### **Timescales for meetings of independent review panels to consider permanent exclusions**

If it has not been reasonably practicable for a review panel to meet in person within the original time limit of 15 school days for reasons related to coronavirus (COVID-19), and it has not been reasonably practicable to meet by way of remote access for a reason relating to the other conditions for a remote access meeting, the timescale for the meeting will be extended to 25 school days, or as long as reasonably necessary for a reason related to coronavirus (COVID-19).

This extension does not apply to exclusions that occur after 24 September 2020.

#### **Exclusions occurring between 25 September 2020 and 24 March 2021**

For exclusions occurring between 25 September 2020 and 24 March 2021 (inclusive of those dates), meetings of governing boards or independent review panels should be held via remote access if:

- it is not reasonably practicable to meet in person due to coronavirus (COVID-19)
- the other conditions for a remote access meeting are met

The deadline for applications for an independent review in relation to exclusions occurring between 25 September 2020 and 24 March 2021 will be 25 school days from the date on which notice in writing of the governing board's decision is given to parents, or directly to the pupil if they are 18 or above.

#### **Returning to normal timescales**

It is important that governing board meetings and independent review panel meetings, relating to exclusions occurring between 25 September 2020 and 24 March 2021, take place within the normal timescales set out in the guidance on [exclusion from maintained schools, academies and pupil referral units in England](#).

Governing boards and arranging authorities for independent review panels should take all reasonable steps to meet the normal deadlines for exclusions occurring after 24 September.

They should:

- consider the [guidance on protective measures for the full opening of schools](#)
- facilitate remote access meetings where it is not reasonably practicable to meet in person

If the deadlines are missed because of coronavirus (COVID-19), the meeting must be held as soon as it becomes either reasonably practicable to meet in person or via remote access (respecting the conditions for such a meeting).