



# **School Exclusion Toolkit**

## **Crosssacres Primary Academy 2022/2023**

Guidance for Headteachers and Governors on suspensions and permanent exclusions.

To be used in conjunction with the:

***Manchester Inclusion Strategy 2019-2022***

**&**

***Exclusion from maintained schools, academies and pupil referral units in England:  
Statutory guidance for those with legal responsibilities in relation to exclusion 2017***

# CONTENTS PAGE

<b>1 RATIONALE</b>	3
DfE Guidance	3
The Manchester Inclusion Strategy	3
School policies	4
Role of the Local Authority	4
<b>2 PREVENTING EXCLUSIONS</b>	5
Early intervention	5
Ladder of Support	5
Ladder of Support – Steps Explained	6
Preventative help from the PRU	10
Primary Schools - Key Stage 1 and 2 PRU	10
Secondary Schools - Key Stage 3 & 4 PRU	10
Children in Local Authority Care	10
Traveller Families	10
Alternative Provision	11
<b>3 SCHOOL EXCLUSION</b>	11
Suspensions & Permanent Exclusion	11
Suspension Only	13
Permanent Exclusion Only	13
Role of the Governors Review Panel/Sub-Committee	14
Composition of the Governors Review Panel/Sub-Committee - Maintained Schools	15
Composition of the Governors Review Panel/Sub-Committee - Academy Trusts	15
Procedure at the Governors' Review Panel/Sub Committee	15
Requesting and circulating Papers	16
Clerking the Governors' Review Panel/Sub Committee	16
<b>4 INDEPENDENT REVIEW PANEL</b>	16
Who runs the Independent Review Panel?	16
What issues will the Independent Review Panel consider?	17
Possible decisions of an Independent Review Panel	17
Following an Independent Review Panel	17
SEND Tribunal	17
<b>5 REMOVAL OF A PUPIL FROM THE SCHOOL ROLL</b>	18
Redetermination of Budgets	18
<b>6 UNPRECEDENTED CIRCUMSTANCES</b>	19
<b>7 CONTACTS</b>	19

# 1 RATIONALE

## DfE Guidance

**1.1** The Manchester School Exclusion Toolkit is produced by Manchester Local Authority from the DfE guidance and it is important to refer to this when considering an exclusion and to ensure that all processes and procedures carried out are compliant with the guidance.

**1.2** All decisions about suspensions and permanent exclusions should be made in compliance with statutory DfE guidance - Exclusions from schools, academies and pupil referral units in England – Statutory Guidance for those with legal responsibilities in relation to exclusion September 2017, found via <https://www.gov.uk/government/publications/school-exclusion>.

**1.3** Whilst it is acknowledged that in some instances, a permanent exclusion is the only course of action to be taken due to the nature of the event/incident, we want to ensure that everything possible has been done to avoid the exclusion of any young person from a Manchester school and believe that exclusion should be used as a last resort. Early intervention is paramount, and as such, throughout this guidance, there are references to recommendations that are included in the Manchester Inclusion Strategy as suggested additional supportive interventions to consider alongside statutory responsibilities and expectations.

**1.4** Where a pupil is at risk of a permanent exclusion please inform [exclusions@manchester.gov.uk](mailto:exclusions@manchester.gov.uk) or call **0161 234 5255** for advice from the School Attendance & Exclusion Team with regards to the statutory process and alternative options to exclusion, which may include referral to specialist services.

## The Manchester Inclusion Strategy

**1.5** The Manchester Inclusion Strategy has been developed to help the Local Authority, early years' settings, schools, Post 16 providers and other services work in a more coherent way to support young people to attend well and/or to reduce the risk of exclusion. The strategy provides an outline of approaches, interventions and services, to support all Manchester settings, schools and Post 16 providers to ensure the needs of all young people are understood and addressed in order to support good attendance and prevent the use of exclusion wherever possible.

**1.6** The offer is made of four identified strands of intervention:

**Strand 1 – Universal Provision** and a whole school/education setting vision and ethos

**Strand 2 – Early Identification** of children presenting challenging and school refusing behaviours

**Strand 3 – Alternative Provision or Specialist Support** fully embracing the individual needs of any young person who requires a different kind of support and / or setting

**Strand 4 - Ensuring Best Practice in the Use of Exclusion** with the aim of reducing the use of suspension and permanent exclusion for incidents of persistent disruptive behaviour by

ensuring that the root causes of such emerging behaviours are understood and appropriately addressed as early as possible through early intervention and innovative multi-agency planning.

The document itself can be found at:

**[https://secure.manchester.gov.uk/directory\\_record/376574/manchester\\_inclusion\\_strategy/category/1479/childrens\\_services](https://secure.manchester.gov.uk/directory_record/376574/manchester_inclusion_strategy/category/1479/childrens_services)**.

## **School policies**

**1.7** A whole school behaviour policy needs to be in place which provides guidance to staff, young people, parents and carers on promoting positive behaviour in school and restorative approaches. The procedures and guidance within the policy need to outline the consistent, whole school approach to the management of behaviour in school and the early identification of need. The school's behaviour policy should be fully informed by the school's SEND, safeguarding, anti-bullying, equalities, attendance and teaching and learning policies and should promote the use of specialist services where appropriate. DfE guidance for policy writing can be found at <https://www.gov.uk/government/publications/behaviour-and-discipline-in-schools>.

**1.8** The **Children and Families Act 2014** and the supporting **SEND Code of Practice** make it very clear that early year's settings, schools and colleges have to meet the needs of all children and young people with SEND including those who do not have an Education, Health and Care (EHC) Plan. This includes young people who are experiencing social, emotional and mental health difficulties. Where a robust whole school approach to implementing the "Assess, Plan, Do, Review" cycle is in place, any additional needs will be identified as early as possible and effective support put in place to support the young person to learn and to prevent exclusion.

**1.9** Settings should also consider their duties to Looked After and Previously Looked After Children, schools should also take steps to avoid the exclusion of previously looked after children who have left care via adoption, special guardianship or child arrangement order. **The Designated Teacher for Looked after and previously Looked after Children DfE February 2018 and Promoting the Education of Looked After Children February 2018.**

## **Role of the Local Authority**

**1.10** The Local Authority is responsible for ensuring that statutory obligations are upheld at each stage of the permanent exclusion process, working with schools to ensure fairness, consistency and transparency leading to positive outcomes and destination for each pupil going through this process.

## **Toolkit A MCC School Attendance & Exclusions Team Structure**

## 2 PREVENTING EXCLUSIONS

### Early intervention

**2.1** Settings should conduct further assessment of any potential underlying learning or social, emotional or mental health needs being experienced by the young person through the organisation's SEND and/or Early Help processes. When the absence patterns and/or behaviour of any pupil begins to cause concern education settings should not only deal with the specific incident that has occurred but should also respond with curiosity to identify any underlying needs. Sources of information may include attendance records, behaviour records, observations, CPOMS records, IRIS, SALT screening for example. Appropriate steps can then be taken to provide support through a strengths-based approach with the pupil, their parents/carers, members of the staff team and, where appropriate, other professionals.

### Ladder of Support

**2.2** The Ladder of Support, in line with recommendations and legislative guidance taken from Intervention **Working Together to Safeguard Children (2018)**, the **DfE Exclusion Guidance (2017)**, the **SEND Code of Practice (2014)** and the **Manchester Inclusion Strategy**, provides a clear focus and tiered approach to supportive interventions, for use with all children to foster an approach of reducing exclusion and increasing holistic early interventions. This approach is inclusive of need or circumstance, and should be applied with consistency, whilst taking into account specific needs such as, but not limited to, Special Educational Needs (SEND), Our Children (LAC), children receiving free school meals (FSM) and children evidencing Social, Emotional, Mental Health (SEMH). It is encouraged that schools engage with the Inclusion Panel in their area where cases can be discussed, support agreed, and actions determined between the school and the local authority.

**2.3** The Ladder of Support is needs-led and defined by the child and their families in collaboration with professionals with an emphasis on shared decision-making and will be focused on with the **Every Child Project** in the 2021/22 academic year with some action research to help to validate, inform and update.

**2.4** The aims of the Ladder of Support are to:

- Increase the capacity for schools to meet the needs of all children; preventing those whose needs can be met in mainstream school from attending an alternative setting.
- Facilitate a multi-agency approach to promote inclusion and understanding and reduce the need for exclusion and achieve the best outcome for the child.
- Ensure flexible assessments to identify the individual needs of children and families.
- Encourage children and young people's feedback to drive intervention and support.

### Toolkit B Inclusion Panel Terms of Reference

### Toolkit C Ladder of Support

## The Ladder of Support - Steps Explained

Step	Statutory Guidance	Recommended Intervention
<b>1 - Explore</b>  <b>M-Thrive - Get Advice</b>	<p><b>3.8</b> When establishing the facts in relation to an exclusion decision the head teacher 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.' This means that the head teacher should accept that something happened if it is more likely that it happened than that it did not happen.</p> <p><b>3.17</b> The decision on whether to exclude is for the head teacher to take. However, where practical, the head teacher should give the pupil an opportunity to present their case before taking the decision to exclude.</p> <p><b>3.19</b> Early intervention to address underlying causes of disruptive behaviour should include an assessment of whether appropriate provision is in place to support any SEN or disability that a pupil may have. The head teacher should also consider the use of a multi-agency assessment for a pupil who demonstrates persistent disruptive behaviour.</p>	<p>1 Meet with the child to review current attendance, behaviour, attainment and progress as part of a fact-finding and support intervention. Adopting a restorative approach aids the development of a trusting relationship and allows for a shared understanding of mitigating circumstances and consideration of unmet need. In such cases, complete an Early Help referral (<b>Toolkit D</b>).</p> <p>2 Where there is a concern with regards to SEMH an assessment of underlying need is conducted - this includes a screen of communication ability, a reading assessment and an SEMH screening tool (<b>Toolkit E</b>). With regards to SEND, the screening and assessment should be led by the SENCO or suitable nominated person. For complex needs or further advice, contact the MCC Statutory Assessment Team (sen@manchester.gov.uk or 0161 234 1222).</p> <p>3 Identify an appropriate link worker within the school and make known to the school inclusion lead and initiate 1:1 support.</p> <p>4 Utilising voice of the child methodology, explore the child's wishes and feelings, and consult with the family for a holistic overview and to establish a link and agree a suitable date and time to formally meet (<b>Toolkit F</b>).</p> <p>5 Consult with relevant support inter and external agencies, including MCC Early Help for advice. The MERMHWB Directory (see schoolshub) also has a range of advice and services available that may support.</p> <p>6 Undertake observations of classroom and out-of-classroom behaviours, liaising with colleagues for input as required, taking account of any recommended curriculum and/or school amendments after assessing the whole learning environment.</p> <p>7 Agree any necessary adjustments to the curriculum with relevant staff, taking into account the impact of the environment as well as the feedback from the child/young person and their family.</p> <p>8 Audit relevant staff for CPD requirements in relation to common themes or reoccurring issues such as SEMH, communication and cognitive need, adverse childhood experiences, as well as amendment of relevant policy.</p> <p>9 Refer for support to the local authority district Inclusion Panel (<b>Toolkit B</b>).</p> <p><b>Any safeguarding/child protection concerns should be acted upon immediately.</b></p>



<p><b>2 - Agree a Plan</b></p> <p><b>M-Thrive Getting Help</b></p>	<p><b>3.5</b> The head teacher may withdraw an exclusion that has not been reviewed by the governing board.</p> <p><b>3.9</b> Under the Equality Act 2010 (the Equality Act), schools must not discriminate against, harass or victimise pupils because of: sex; race; disability; religion or belief; sexual orientation; pregnancy/maternity; or gender reassignment. For disabled children, this includes a duty to make reasonable adjustments to policies and practices and the provision of auxiliary aids.</p> <p><b>3.22</b> In addition to the approaches on early intervention set out above, the head teacher should consider what extra support might be needed to identify and address the needs of pupils from these groups in order to reduce their risk of exclusion. For example, schools might draw on the support of Traveller Education Services, or other professionals, to help build trust when engaging with families from Traveller communities.</p>	<p>1 Meet as planned with the child and family to agree on an action plan with identified monitoring points to review progress including specifically <b>(Toolkit G)</b>.</p> <p>2 Discussion should include feedback from any action taken at stage 1. Revisit these actions within the discussion to ensure all opportunities for intervention have been reiterated and agreement is in-place.</p> <p>3 Where unmet needs become evident, but there are no identified SEND needs, complete an Early Help assessment and engage services as appropriate. Where SEN is identified complete an SEN Support plan.</p> <p>4 Discuss consultation and advice from inter and external agencies, and possible strands of additional support for referral and agree as appropriate (including primary and secondary PRU settings, MERMHWB Directory and M Thrive in Education) Families will have to consent to other services including the Early Help team becoming involved <b>(Toolkit D)</b>.</p> <p>5 Agree plan with relevant staff re: CPD requirements and relevant policy amendments. Address any resource issues that require consideration and adaption.</p> <p>6 Continue to discuss and seek support via the local authority district Inclusion Panel <b>(Toolkit B)</b>.</p> <p><b>Any safeguarding/child protection concerns should be acted upon immediately.</b></p>
<p><b>3 - Implement the Plan</b></p> <p><b>M-Thrive Getting Help</b></p>	<p><b>3.24</b> Schools should engage proactively with parents in supporting the behaviour of pupils with additional needs. In relation to looked after children, schools should cooperate proactively with foster carers or children's home workers, the local authority that looks after the child and the local authority's virtual school head.</p>	<p>1 Implement in school support and targeted intervention as identified through the assessment.</p> <p>2 Request the involvement of additional services identified as required in steps 1 and 2 and ensuring the implementation of identified intervention advised that is considered to be reasonable adjustments in meeting the needs of the child.</p> <p>3 Implement CPD action plan with staff and address resource adaptations required, ensuring any amendments to policy are made.</p> <p>4 Continue to discuss and seek support via the local authority district Inclusion Panel <b>(Toolkit B)</b>.</p> <p><b>Any safeguarding/child protection concerns should be acted upon immediately.</b></p>
<p><b>4 – Review &amp; Amend the Plan</b></p>	<p><b>3.20</b> Where a pupil has received multiple exclusions or is approaching the legal limit of 45 school days of fixed-period exclusion in an</p>	<p>1 Using the monitoring review points, meet with the child, the family and involved inter and external agencies to monitor the effectiveness of the plan and record both positive progress and ongoing and any new concerns.</p>

<p><b>M-Thrive Getting more help</b></p>	<p>academic year, the head teacher should consider whether exclusion is providing an effective sanction.</p> <p><b>3.18</b> Whilst an exclusion may still be an appropriate sanction, the head teacher should take account of any contributing factors that are identified after an incident of poor behaviour has occurred.</p>	<p>2 As part of this, evaluate the effectiveness of the actions taken in step 1- 3 and agree any amendments.</p> <p>3 Celebrate positive aspects of progress and consider any need for re-assessment.</p> <p>4 Consider referrals to any further inter and external agencies for additional support (primary and secondary PRU settings, Mental Health Directory and M Thrive in Education).</p> <p>5 If it is in the best interest of the child, a managed move may be considered. Please refer to the MCC Managed Move Protocol (<b>Toolkit H</b>). This should include a meeting of both schools, the child and the family for a strength-based conversation that takes into account the views of the parent/s and child as to strengths/interests and support/challenges</p> <p>6 Consider alternative curriculum pathways within the school or through a bespoke package that incorporates. These can be longer term or as a short-term approach with a planned reintegration to the school's curriculum pathway.</p> <p>7 Continue to discuss and seek support via the local authority district Inclusion Panel (<b>Toolkit B</b>).</p> <p><b>Any safeguarding/child protection concerns should be acted upon immediately.</b></p>
<p><b>5 - Implement the Revised Plan</b></p> <p><b>M-Thrive Getting more help</b></p>	<p><b>3.24</b> Schools should engage proactively with parents in supporting the behaviour of pupils with additional needs. In relation to looked after children, schools should cooperate proactively with foster carers or children's home workers, the local authority that looks after the child and the local authority's virtual school head.</p>	<p>1 Record any recommended amendments to the action plan.</p> <p>2 Agree on revised monitoring points.</p> <p>3 Ensure any new referrals for inter or external support are implemented.</p> <p>4 Make referrals to any further inter and external agencies for additional support (primary and secondary PRU settings, Mental Health Directory and M Thrive in Education), including any schools to be approached re: a managed move or alternative curriculum pathways.</p> <p>5 Continue to discuss and seek support via the district Inclusion Panel (<b>Toolkit B</b>).</p> <p><b>Any safeguarding/child protection concerns should be acted upon immediately.</b></p>
<p><b>6 - Alternative Options</b></p> <p><b>M-Thrive</b></p>	<p><b>3.25</b> Where a school has concerns about the behaviour, or risk of exclusion, of a child with additional needs, a pupil with an EHC plan or a looked after child, it should, in partnership with others (including the local authority as necessary), consider what additional support or alternative placement may be required.</p>	<p>1 Schools are encouraged to contact the MCC School Attendance &amp; Exclusion Team for advice.</p> <p>2 If it is in the best interest of the child, temporary alternative provision at an appropriate setting may be considered.</p>



<p><b>Getting risk support</b></p>	<p><b>3.15</b> Maintained schools have the power to direct a pupil off-site for education to improve their behaviour<sup>6</sup>. A pupil at any type of school can also transfer to another school as part of a 'managed move' where this occurs with the consent of the parties involved, including the parents and the admission authority of the school. However, the threat of exclusion must never be used to influence parents to remove their child from the school.</p>	<p>3 Consider alternative curriculum pathways either with external providers or through a bespoke package that incorporates. These can be longer term or as a short-term approach with a planned reintegration to the school's curriculum pathway.</p> <p>4 Ensure that all relevant parties are in agreement and MCC Admissions processes are informed and that the action plan is updated and transferred to appropriate staff accordingly with CPD needs of staff identified and met.</p> <p>5 Attend review meetings and work with the child, family and inter and external agencies to support a successful reintegration into school following intervention.</p> <p>6 Following re-integration, begin the Ladder of Support at step 1.</p> <p>7 Continue to discuss and seek support via the local authority district Inclusion Panel (<b>Toolkit B</b>).</p> <p><b>Any safeguarding/child protection concerns should be acted upon immediately.</b></p>
<p><b>7 - Exclusion</b></p> <p><b>M-Thrive Getting risk support</b></p>	<p><b>3.6</b> Any decision of a school, including exclusion, must be made in line with the principles of administrative law, i.e. that it is: lawful (with respect to the legislation relating directly to exclusions and a school's wider legal duties, including the European Convention on Human Rights and the Equality Act 2010); rational; reasonable; fair; and proportionate.</p> <p><b>3.13</b> It is unlawful to exclude for a non-disciplinary reason. For example, it would be unlawful to exclude a pupil simply because they have additional needs or a disability that the school feels it is unable to meet, or for a reason such as: academic attainment/ability; the action of a pupil's parents; or the failure of a pupil to meet specific conditions before they are reinstated, such as to attend a reintegration meeting.</p>	<p>1 If the outcome is to move to exclude, schools should follow the protocol as detailed in the <b>Steps to Exclusion Checklist (Toolkit J) and step by-step guides in Toolkit K (fixed-term) &amp; L (permanent)</b>.</p> <p>2 Schools remain responsible for learning within the first 6 days of the exclusion.</p> <p>3 Schools should support the transition of relevant information with regards to the child to the alternative provider/PRU setting to ensure the safety and wellbeing of the child. This includes any initial safety and wellbeing planning for a child who is vulnerable following school exclusion.</p>

## **Preventative help from the PRU**

**2.5** Pupil's at risk of a permanent exclusion may benefit from a preventative place at the PRU. To support your request, the information outlined below may be required:

- Fisher Family Trust (FFT) data
- FFT Y6 Predicted data
- EP Report
- Current end of year expectation
- Annotated work
- Undergoing Statutory Assessment
- Attendance data over time
- Numerical analysis of collated incidents in previous term/ year
- Provision map (including recommendations/impact over time based on these recommendations)
- Boxall profile.
- Reports from other involved professionals

### **Primary Schools - Key Stage 1 and 2 PRU**

**2.6** Primary schools can access a range of **advice and outreach work** from the Key Stage 1 and 2 PRU and where appropriate temporary preventative placements.

### **Secondary Schools - Key Stage 3 & 4 PRU**

**2.7** The Key Stage 3 and 4 PRUs have arrangements currently in place with secondary schools for the purchase of preventative/temporary placements at the PRU.

**2.8** Contact details are provided in Section 7 of this document.

### **Children in Local Authority Care**

**2.9** Please note that if the child who is at risk of exclusion is in Local Authority Care you should send an email to [exclusions@manchester.gov.uk](mailto:exclusions@manchester.gov.uk) or call 0161 234 5255 and also contact the Virtual School Head from the Local Authority which is responsible for the young person's care. If the young person is in the care of Manchester, you should contact the Manchester Virtual School Team via [virtualschool.education@manchester.gov.uk](mailto:virtualschool.education@manchester.gov.uk) or 0161 234 4160. The Virtual School Team will work with you to discuss the young person's needs and how they can be met whilst preventing the need for a permanent exclusion.

### **Traveller Families**

**2.10** Advice and support is available through the Irish Community Care organisation.

**2.11** There are two forms of support available;

- a. Information and Advice; this largely centres around benefit claims, Housing applications (but caters for a wider variety of enquiries where necessary).
- b. Advocacy and Support; This service looks at wider support needs and works intensively with clients for a 12-week period, with other agencies to ensure that clients are both beginning to address these needs themselves and linking in with other services. The 12-week period can be extended to deal with more complex cases. This is reviewed on a case by case basis.

**2.12** As an organisation, Irish Community Care work closely with some of the Traveller families in the Manchester area and have experience with educational matters. The service is flexible and will consider offering support on a wide range of matters and looks at what can be done on a case by case basis.

**2.13** Referrals can be made via:

Online referral form at <https://www.irishcommunitycare.com/>

Email: [asreferrals@irishcommunitycare.com](mailto:asreferrals@irishcommunitycare.com)

Telephone: 01612562717.

### **Alternative Provision**

**2.14** It is important for schools to help minimise the disruption that exclusion can cause to a child's education. Whilst the statutory duty on governing boards or local authorities 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, the school and the local authority should work together to arrange alternative provision from the first day following the exclusion.

**2.15** Statutory Alternative Provision Guidance can be found via <https://www.gov.uk/government/publications/alternative-provision> and should be used to inform decisions with regards to directing pupils to education off-site to improve behaviour as an alternative to permanent exclusion.

**2.16** A school wishing to educate its pupils offsite must assure itself that it is acting within the limits of its legal powers and complying with any procedural requirements that apply.

**2.17** Schools, including academies, are entitled to direct pupils to alternative provision as set out by the alternative-provision statutory guidance for local authorities. As stated by the statutory guidance, this legislation does not apply to academies.

**2.18** Academies can arrange off-site provision for the similar purposes under their general powers. Parents do not need to consent to schools educating their pupils off-site so long as the school has the legal power to do so.

**2.19** Parents must be notified, in writing, that their child is required to attend such provision, and this must be done at least 2 days before the placement begins. Department guidance sets

out that where possible, parents should be engaged in the decisions taken by the school to direct a pupil off-site.

**2.20** When using their power to direct pupils off site, schools must:

- ensure that parents (and the local authority where the pupil has an Education, Health and Care Plan (formerly a statement of special educational needs)) are given clear information about the placement: why, when, where, and how it will be reviewed;
- keep the placement under review and involve parents in the review (the reviews should be frequent enough to provide assurance that the off-site education is achieving its objectives and that the pupil is benefitting from it);
- have regard to the statutory guidance from the Secretary of State on the use of the power to direct off site.

**Toolkit D Early Help Referral**

**Toolkit E SEMH Screening Assessment**

**Toolkit F Voice of the Child methodology**

**Toolkit G Student Support Action Plan Template**

**Toolkit H MCC Managed Move Protocol**

**Toolkit I Information on Manchester's Primary PRU services**

**Toolkit J Steps to Exclusion – a Headteacher's Checklist**

## **3 SCHOOL EXCLUSION**

### **Suspension & Permanent Exclusion**

**3.1** Exclusion is the final option following the interventions to prevent this having been unsuccessful and as such, allowing the child to remain in school would be detrimental to their education and/welfare, or that of others. Exclusion must be used for disciplinary matters only and recorded as such. There are two types of exclusion; suspension and permanent and both have their own process to follow.

**3.2** Any decision of a school, including exclusion, must be made in line with the principles of administrative law, i.e. that it is: lawful (with respect to the legislation relating directly to exclusions and a school's wider legal duties, including the European Convention on Human Rights and the Equality Act 2010); rational; reasonable; fair; and proportionate

**3.3** The decision on whether to exclude is for the headteacher to take. However, where practical, the headteacher should give the pupil an opportunity to present their case before taking the decision to exclude. The headteacher must take account of their legal duty of care when sending a pupil home following an exclusion.

**3.4** When establishing the facts in relation to an exclusion decision the headteacher 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.' This means

that the head teacher should accept that something happened if it is more likely that it happened than that it did not happen.

**3.5** Under the Equality Act 2010 (the Equality Act), schools must not discriminate against, harass or victimise pupils because of: sex; race; disability; religion or belief; sexual orientation; pregnancy/maternity; or gender reassignment. For disabled children, this includes a duty to make reasonable adjustments to policies and practices and the provision of auxiliary aids.

**3.6** The head teacher and governing board must comply with their statutory duties in relation to SEN when administering the exclusion process. This includes having regard to the SEND Code of Practice.

**3.7** As well as having disproportionately high rates of exclusion, there are certain groups of pupils with additional needs who are particularly vulnerable to the impacts of exclusion. This includes pupils with EHC plans and looked after children. The headteacher should, as far as possible, avoid permanently excluding any pupil with an EHC plan or a looked after child.

**3.8** Schools should engage proactively with parents in supporting the behaviour of pupils with additional needs. In relation to looked after children, schools should cooperate proactively with foster carers or children's home workers, the local authority that looks after the child and the local authority's Virtual School Head.

**3.9** It is unlawful to exclude for a non-disciplinary reason. 'Informal' or 'unofficial' exclusions, such as sending a pupil home 'to cool off', are unlawful, regardless of whether they occur with the agreement of parents or carers. Any exclusion of a pupil, even for short periods of time, must be formally recorded.

**3.10** Maintained schools have the power to direct a pupil off-site for education to improve their behaviour. A pupil at any type of school can also transfer to another school as part of a 'managed move' where this occurs with the consent of the parties involved, including the parents and the admission authority of the school. However, the threat of exclusion must never be used to influence parents to remove their child from the school.

### **Suspension Only**

**3.11** Suspension should be as short as possible with research suggesting that 1-3 days are often long enough to secure the benefits of exclusion without adverse consequences.

**3.12** Suspension of more than 15 days within a school year (cumulative) are automatically subject to review by the governing body. If the pupil is excluded for a further suspension following the original suspension, or is subsequently permanently excluded, the headteacher should inform parents without delay and a new exclusion notice be issued.

**3.13** A suspension does not have to be for a continuous period.

**3.14** A pupil cannot be excluded for more than 45 school days in any one school year. If the suspension brings the cumulative number of days to 16 days within a term a governor's review panel/sub-committee is required. If the exclusion would result in the pupil missing a public examination or national curriculum test, for a cumulative total of 6-15 days in a term a governor's review panel/sub-committee is only required if a parent requests it.

**3.15** Pupils whose behaviour at lunchtimes is disruptive may be excluded during the lunch-break. Headteachers still have a legal requirement to inform parents. Lunchtime suspensions are counted as half a school day for statistical purposes and in deciding whether a governing body meeting is required. It is good practice that where a pupil is entitled to free school meals, the school should make arrangements to provide a meal (such as a packed lunch).

**3.16** The law does not allow for extending a suspension or 'converting' a suspension into a permanent exclusion. In exceptional cases, usually where further evidence has come to light, a further suspension may be issued to begin immediately after the first period ends; or a permanent exclusion may be issued to begin immediately after the end of the suspension.

**3.17** For a suspension of more than five school days, the governing board (or local authority in relation to a pupil excluded from a PRU) must arrange suitable full-time education for any pupil of compulsory school age. This provision must begin no later than the sixth school day of the suspension. Where a child receives consecutive suspensions, these are regarded as a cumulative period of suspension for the purposes of this duty. This means that if a child has more than five consecutive school days of suspension, then education must be arranged for the sixth school day of suspension, regardless of whether this is as a result of one suspension or more than one suspension.

#### **Permanent Exclusion Only**

**3.18** For permanent exclusions, the local authority must arrange suitable full-time education for the pupil to begin no later than the sixth school day of the exclusion. This will be the pupil's 'home authority' in cases where the school is maintained by (or located within) a different local authority.

**3.19** Where it is not possible, or not appropriate, to arrange alternative provision during the first five school days of an exclusion, the school should take reasonable steps to set and mark work for the pupil. Work that is provided should be accessible and achievable by the pupil outside school. In the case of a looked after child, the school and the local authority should work together to arrange alternative provision from the first day following the exclusion.

**3.20** Schools should report the exclusion to the local authority using the Permanent Exclusion Reporting Form, submitting to [exclusions@manchester.gov.uk](mailto:exclusions@manchester.gov.uk). For pupils of secondary school age, schools are asked to submit the Manchester Secondary PRU Referral Form prior to the start of day 6 provision. This form should be submitted to [PRU.Referrals@mspru.manchester.ach.uk](mailto:PRU.Referrals@mspru.manchester.ach.uk).

**Toolkit K DfE Exclusion Codes**

**Toolkit L Suspension Step-by-Step**



Toolkit M Permanent Exclusion Step-by-Step  
Toolkit N How to Record an Exclusion  
Toolkit O Permanent Exclusion Reporting Form  
Toolkit P Information on Attendance Codes  
Toolkit Q Model Exclusion Letters

## Role of the Governors Review Panel/Sub-Committee

**3.21** The role of the governing body is to review whether the headteacher's decision was lawful, reasonable and fair. This review will involve the following considerations, in the context of the **DfE Guidance on Exclusions**, appropriate school policies, any representations made and the circumstances of the excluded pupil, especially if they have an Education Health and Care Plan or are a Looked After Child.

Where an allegation of misconduct against the pupil is in dispute, the standard of proof is the balance of probabilities (it is more likely than not that a fact is true, rather than the criminal standard of 'beyond reasonable doubt').

Whether correct procedure was followed – a decision should not be overturned on a technical defect unless the process was so flawed that justice was clearly not done.

Whether the exclusion was proportionate (fair and justified).

**3.22** The panel must balance the interest of the excluded pupil against the interests of all other members of the school community.

**3.23** The following two tests of the headteachers decision to exclude are referred to in the statutory guidance:

- Has the headteacher demonstrated that their decision to exclude the pupil is in response to a serious breach, or persistent breaches, of the school's behaviour policy?
- Has the headteacher demonstrated that allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school?

**3.24** The appointed governors, clerk and chair should not have prior knowledge of the details of the case but should have a good understanding of the **DfE Statutory Exclusions Guidance**, the **Equality Act 2010** and the School Behaviour Policy. Further information and guidance is available on the **National Governance Association Website** (available to NGA members only) and there is a list of organisation's and consultants who can provide exclusions training and advice to governors in the Accredited Provider List of Governor Training which is available on the **MCC Schoolshub Website** (please contact your clerk or headteacher for the username and password).

**3.25** 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. It must, so far as is reasonably practicable, consider the exclusion before the date of the examination or test. If it is not practicable for a sufficient number of governors to consider the decision before the examination or test, the chair of governors, in the case of a maintained school may consider

the exclusion alone and decide whether or not to reinstate the pupil. In the case of an academy the exclusion may be considered by a smaller sub-committee if the trust's articles of association allow them to do so. In such cases, parents still have the right to make representations to the governing board and must be made aware of this right.

**3.26** The governing body can:

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

### **Composition of the Governors Review Panel/Sub-Committee - Maintained Schools**

**3.27** A governing body of a maintained school may delegate this function to a sub-committee made up of a minimum of three governors. The headteacher, the parents (and, where requested, a representative or friend) and a representative of MCC should be invited (in the case of maintained schools and the PRU). In the case of a looked after child, a social worker may also be present.

### **Composition of the Governors Review Panel/Sub-Committee - Academy Trusts**

**3.28** Academy trust boards may also delegate this function if their articles of association for this. Although a representative from MCC is not required, this can be arranged by emailing [exclusions@manchester.gov.uk](mailto:exclusions@manchester.gov.uk) and parents should be informed of their right to make representations.

### **Procedure at the Governors' Review Panel/Sub Committee**

**3.29** The Governors' Meeting or Sub-Committee to consider an exclusion must be clerked by a suitably qualified and experienced clerk/ professional who is able to provide procedural advice if required (see Appendix for a model agenda). The governing body should ensure that all parties are supported to participate and have their views properly heard. This can be achieved by adopting a procedure such as the one suggested below.

### **Requesting and circulating Papers**

**3.30** Clerk/ other person must request written statements in advance of the meeting including:

- headteacher report and witness statements;
- parent submission.

These should arrive with the clerk/ other person no later than 7 school days before the Governors' Meeting.

**3.31** The clerk/ other person should circulate all these papers to the head teacher, parent of the excluded pupil, and the LA representative (if relevant) at least 5 days before the meeting

## **Clerking the Governors' Review Panel/Sub Committee**

**3.32** It is important that the Governors' Review Panel/Sub Committee to review exclusions is run efficiently, fairly and within the processes outlined in the **Exclusions from schools, academies and pupil referral units in England – Statutory Guidance for those with legal responsibilities in relation to exclusion September 2017**.

**3.33** It is therefore important that a suitably qualified and experienced clerk/professional is appointed, who can provide procedural advice if required and play a central role in the planning and organisation. This includes a record of clear minutes of the Governors' Review Panel/Sub Committee which should be available to all parties on request.

**Toolkit R Governing Body Intervention Step-by-Step**

**Toolkit S Model Governors Meeting Agenda & Questions**

## **4 INDEPENDENT REVIEW PANEL**

**4.1** An Independent Review Panel (IRP) is held after a **permanent exclusion** if a parent lodges an appeal no later than the **15<sup>th</sup> school day** after receipt of the decision letter from the governors meeting that considered the exclusion.

### **Who runs the Independent Review Panel?**

**4.2** The Independent Review Panel for maintained schools is run by the Independent Education Appeals Service for Manchester, based within the Local Authority's Democratic Services and City Solicitor's office. Academy Trusts may make their own arrangements for an independent review panel.

**4.3** In Manchester the LA independent review panel is a three-member panel comprising: a lay member (Chair), a school governor (or ex-governor), and a head teacher (or recently serving head teacher).

**4.4** If requested by parents, in their application for the review, the local authority/ Academy Trust must appoint a SEN expert to attend the review panel (whether or not the child has recognised special educational needs). The Local Authority has Educational Psychologists who can act as SEN experts at the independent review panel at the request of a parent.

### **What issues will the Independent Review Panel consider?**

**4.5** The panel's role is to review the decision not to reinstate a permanently excluded pupil.

**4.6** 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.

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

## Possible decisions of an Independent Review Panel

4.8 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**.

4.9 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 (illegality, irrationality, procedural impropriety).

4.10 Where a panel **directs** a governing body to **reconsider an exclusion** it has the power to order that a readjustment of the school's budget in addition to any funding that would normally follow an excluded pupil – if the governing body does not offer to reinstate the pupil within 10 school days.

## Following an Independent Review Panel

4.11 The panel must write to all parties without delay. This must include the panel's decision and reasons for it, details of any financial adjustments if the GB does not offer to reinstate a pupil and any information that should be recorded on a pupil's educational record.

## SEND Tribunal

4.12 Parents whose children have special educational needs and who think the exclusion relates to this and as such, disability discrimination has occurred, the parent has the right to appeal, and/or make a claim, to the First Tier Tribunal (<http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/send/index.htm>).

4.13 An appeal can be made if the local authority:

- refuses to secure an EHC needs assessment of the child's special educational needs, following a request by the parents or the educational provision;
- refuses to secure an EHC plan, after concluding an EHC needs assessment;
- refuses to arrange a reassessment of the child's special educational needs (following
- decides to stop maintaining a request by the parent or child's school) if the local authority has not made an assessment for at least six months; the child's EHC plan;
- decides not to replace or amend the EHC plan following a review;
- decides not to change the EHC plan after reassessing the child; or
- has made an EHC plan or has amended or replaced a previous EHC plan and you disagree with one or all of the following:
  - The part which describes the child's special educational needs.
  - The part which sets out the special educational provision (help) that the local authority thinks the child should receive.

- The educational provision or type of educational provision named in the EHC plan.
- The local authority not naming a school in the EHC plan.

## 5 REMOVAL OF A PUPIL FROM THE SCHOOL ROLL

**5.1** If a permanent exclusion is confirmed, the pupil's name should be removed from the school roll on the school day:

- after the appeal panel's confirmation of permanent exclusion;
- on expiry of the time allowed for appeals to be made;
- if the pupil takes up a place elsewhere; or
- after the parent confirms in writing that they do not intend to appeal.

### **Redetermination of budgets where pupils have been excluded**

**5.2** MCC follow the Department of Education (DfE) guidance on the recoupment of funds from schools where pupils have been excluded. Recoupment of funding will be actioned following the final decision, either:

the 15<sup>th</sup> school day after the governing body/discipline committee **or**

after the independent review panel (if parent/carer request an independent review following the governing body/discipline committee

**5.3** This is calculated based on the relevant pupil related funding rates from the 'relevant date', which is the 6<sup>th</sup> day following the date of a permanent exclusion.

## 6 Unprecedented Circumstances

**6.1** Following the impact on schools and school policy following COVID-19, it is appropriate to recognise that there are, at times, unprecedented circumstances that may impact on normal processes. These circumstances are not always identified by central government and can allude to specific school or family-related challenges that impact on normal processes being implemented.

**6.2** In such circumstances, whilst the timeframes set out in the School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 may remain in force, it may not be possible to meet the timeframes set out in regulations for review meetings and IRPs, due to any disruption caused. The regulations themselves envisage that the timeframes may not always be met, which is why they specify that meetings and panel hearings must still go ahead even if the relevant deadline has been missed.

**6.3** In such cases, the Statutory Lead for Attendance & Exclusions should be consulted to agree on any adopted measures put into place by the school concerned. Governing boards and arranging authorities should continue to take reasonable steps to ensure meetings are arranged for a time when all parties are able to attend.

**6.4** In cases of central government intervention, the local authority will co-ordinate a city-wide response to school exclusions in such circumstances and will agree appropriate steps that ensure compliance with the regulations and will liaise with the Department of Education.

**Toolkit T Exclusion Process on-a-page**

**Toolkit U Glossary of Terms**

## 7 Contacts



<b>Statutory Lead for Attendance &amp; Exclusions</b>	Tel No: 07852393802 Email: edward.haygarth@manchester.gov.uk
<b>Exclusions:</b>	Tel No: 0161 234 5255 Email: exclusions@manchester.gov.uk
<b>Independent Education Appeals Service:</b>	Tel No: 0161 234 3038 Email: school.appeals@manchester.gov.uk
<b>Secondary PRU:</b>	Tel No: 0161 696 7965 Email: PRU.Referrals@mspru.manchester.sch.uk
<b>Primary PRU:</b>	Tel No: 0161 272 8716 (Longsight) / 0161 434 1548 (Withington) Email: admin@bridgelea.manchester.sch.uk