



APPROVED BY: TRUST BOARD, 10 July 2023

POLICY OWNER: CURRICULUM AND OUTCOMES COMMITTEE

Policy effective: September 2023

NEXT REVIEW DATE DUE BY: September 2025\*

# EXCLUSIONS POLICY

\*Policy reviewed September 2024, no changes required to the policy. Next review date September 2025

## 1. Aims

All that we do across our family of schools is defined first by our Mission and our Vision:

### **Our Mission:**

“The glory of God is a human being fully alive!” (St Irenaeus)

### **Our Vision:**

Human flourishing and the uniqueness of every individual as a child of God is at the heart of our Catholic educational enterprise. In this context, a human being fully alive is one who is open to faith – to love – to joy – and to learning. They are daily becoming the person God created them to be and they are ready to delight in their God-given gifts, and to use them in the service of the Common Good.

While this policy sets out a legally compliant framework for exclusions in school, it is the expectations that all in our schools will apply this policy with great care. It is a sad fact that some pupils can find themselves on the wrong side of the rules and expectations of any school, but their behaviour must never diminish the integrity of their being; never diminish their right to have consequences explained with clarity and compassion. Even in the most serious of cases, we will continue to support each their family and professionals through the next steps of their journey together.

Our school aims to ensure that:

- The exclusions process is applied fairly and consistently
- The exclusions process is understood by governors, staff, parents and pupils
- Pupils in school are safe and happy
- Pupils do not become NEET (not in education, employment or training)
- Ensure all suspensions and permanent exclusions are carried out lawfully

### **A note on off-rolling**

Our school is aware that off-rolling is unlawful. Ofsted defines off-rolling as:

*“The practice of removing a pupil from the school roll without a formal, permanent exclusion or by encouraging a parent to remove their child from the school roll, when the removal is primarily in the interests of the school rather than the best interests of the pupil.”*

We will not suspend or exclude pupils unlawfully by directing them off site, or not allowing pupils to attend school:

- Without following the statutory procedure or formally recording the event, eg sending them home to ‘cool off’
- Because they have special educational needs and/or a disability (SEND) that the school feels unable to support
- Due to poor academic performance
- Because they haven’t met a specific condition, such as attending a reintegration meeting
- By exerting undue influence on a parent to encourage them to remove their child from the school

## 2. Introduction

As a family of schools, we believe that learning is the most important reason for being at School and that nothing should stop learning. In order to support learning and to create a community in which all pupils and staff feel safe, it may be necessary to consider exclusion as a consequence for behaviour which is contrary to the ethos and expectations of the School.

Exclusion is recognised as an appropriate sanction, however permanent exclusion should only be used as a last resort when a range of other strategies have been tried and exhausted. Most exclusions are the result of persistent breaches of the Behaviour Policy. A permanent exclusion for a single serious breach (e.g. a one-off or first offence) should only happen in the most serious of circumstances.

In this policy reference to 'exclusion' includes suspensions (previously referred to as fixed term exclusions) and permanent exclusions. Where the policy is referring to a specific type (i.e. suspension or permanent) of exclusion, the wording will make this clear.

Internal exclusion or isolation is when a pupil is isolated for the whole day and completes the same work as they would be doing in lessons. This is used as an alternative to exclusion. See the Behaviour Policy.

## 3. Definitions

Suspension (fixed term exclusion)	This is an exclusion for a fixed number of days. The pupil must remain at home up to the first 5 days (during which time the School will take reasonable steps to set and mark work for the pupil). For a suspension of more than 5 days, full time education provision organised by the school commences from the 6th day and is organised by the School. A pupil may be not be excluded for more than 45 days in a school year. A pupil is entitled to return to school once the period of suspension has ended.
Permanent Exclusion	<p>This is where the Head Teacher's intention is that the pupil should not be allowed to return to the school.</p> <p>The decision should only be taken if:</p> <ul style="list-style-type: none"> <li>• the pupil has committed a serious breach or persistent breaches of the School's Behaviour Policy; and</li> <li>• allowing him/her to remain in the school seriously harms the learning or welfare of the pupil or others in the school.</li> </ul> <p>In most cases, this will be after a wide range of alternative strategies have been tried without success including alternative provision within and outside of school. However,</p>

	there will be exceptional circumstances where, in the Head Teacher's judgment, it might be appropriate to permanently exclude a pupil for a single serious breach (one-off or first offence).
Managed move	When a pupil is transferred to another school permanently. All parties, including parents and the admission authority for the new school, should consent before a managed move occurs.
Off-site direction	When a school requires a pupil to attend another education setting temporarily, to improve their behaviour.

## 4. Statutory Framework and other guidance

This policy is written in line with the following areas of legislation and guidance:

- Exclusion from maintained schools, Academies and pupil referral units in England – DfE Guidance May 2023 (applicable from September 2023)

## 5. Links to other policies

The Exclusion Policy should be read in conjunction with the following areas of School policy:

- Equal Opportunities Policy
- Complaints Policy
- Behaviour Policy Principles

## 6. Principles underpinning exclusions

The following principles underpin the Exclusion Policy across Trust schools. The process:

- Is lawful, rational, reasonable, fair and proportionate
- Puts the pupil and their learning at the centre of every decision
- Ensures that the School community is safe, nurturing and focused on learning

## 7. Reasonable expectations for investigations

It is essential that every effort is made to ensure decisions made are lawful, rational, reasonable, fair and proportionate. While every effort will be made to follow internal procedures for collecting evidence relating to an exclusion, it is a reality that many serious issues only reveal themselves to be so after an investigation has begun. The initial decision of a Headteacher and then the review panel of governors will be made on the basis that reasonable steps have been taken to investigate an issue thoroughly.

The important determining factor will be whether appropriate and conclusive information has been gathered in order to make a lawful, reasonable, fair and rational decision. For example, while there may be preferred formats for collecting information such a statement from pupils, this does not mean information gathered in another way represents a procedural breach, especially where the validity of the statement is assured by a responsible adult.

## 8. Deciding to exclude

Exclusion is a last resort when all other possible methods of managing pupil behaviour have been exhausted. The decision to exclude is never taken lightly and careful consideration is taken of the facts and surrounding circumstances before reaching the decision to exclude. We are committed to using alternatives to permanent exclusion such as managed moves and alternative provision where appropriate.

We recognise the detrimental impact of exclusion on both the education and well-being of pupils and their families. We also recognise the impact of social exclusion which can result from the permanent exclusion of a pupil and therefore try hard to avoid it.

Pupils are managed consistently, but not necessarily in a uniform manner. We do not operate a 'tariff' approach to the use of exclusion. When considering the decision to exclude, appropriate consideration will be made of aggravating and mitigating factors in each circumstance.

Suspensions and permanent exclusions must reflect both the letter and the spirit of the school's behaviour policy. In cases of one-off serious incidents it can be the case that a pupil of otherwise good character and with a strong behaviour track record behaves in a way that warrants the most serious sanction. This will certainly apply to cases that involve (for example):

- a serious breach of safety requirements likely to endanger other people or yourself
- use or possession of or supply of alcohol or illegal drugs within the academy premises or during academy organised activities
- removal or damage of academy property
- stealing from the academy, employees of the academy, or from pupils
- intentional damage to property
- abuse of the school's computer system and of the internet
- sexual misconduct, abuse, or assault
- serious actual or threatened violence or physical assault against another pupil, member of staff or worker in the academy
- carrying an offensive weapon (defined as any item made or adapted for causing injury)
- bullying and/or harassment including racial, sexual, or homophobic harassment
- wilful defiance of the properly exercised authority of the academy and its staff
- bringing the academy into disrepute or acting in a manner deliberately to undermine the school's principles or ethos.

It is important that in the application of this policy that we understand that, at times, school leaders will have no option but to impose a very serious sanction regardless of the otherwise good character of a pupil. For example, a pupil that engages in any arrangement to bring in and supply drugs – even where there is no financial or personal benefit to that person – exposes both themselves and others to the dangers both of the drugs and the criminal groups associated in the distribution of drugs and those who may have been trafficked to support production and distribution. The criminal influence within the urban areas across our Trust in particular present

a contextual hazard that may have fatal consequences that must be considered in any suspension or permanent exclusion.

Our family of schools share a responsibility to create a culture of zero tolerance around activities that expose young people in our schools to real danger through local criminal organisations.

### Roles and Responsibilities for the Exclusions Policy

Head Teacher	<ul style="list-style-type: none"> <li>Makes the decision to exclude, according to this Policy - Following a decision to exclude, communicates with all relevant parties as outlined in Section 9 Part B in this Policy - Reports records of serious incidents, including exclusions, to LAC on a termly basis.</li> </ul>
SLT member responsible for Behaviour	<ul style="list-style-type: none"> <li>Is responsible for reintegration of pupils following suspension</li> <li>Tracks and monitors patterns in exclusions, and ensures pre-emptive intervention for at-risk pupils is in place - Keeps records (on the MIS system) of all exclusions.</li> </ul>
Parents	<ul style="list-style-type: none"> <li>During the first five days of any exclusion, the parents of an excluded pupil must ensure that excluded pupil is not present in a public place during normal school hours without reasonable justification whether with or without a parent.</li> <li>A failure to comply with this is an offence for which a fixed penalty notice can be issued.</li> </ul>
Local Academy Committee ( and Panel)	<ul style="list-style-type: none"> <li>Responsible for consideration of the Head Teacher's decision in Stage 2 of the exclusion policy</li> <li>Reviews exclusions data on a termly basis.</li> </ul>
Independent Review Panel	<ul style="list-style-type: none"> <li>Responsible for consideration of the Head Teacher's decision in Stage 3 of the exclusion policy.</li> </ul>

## 9. Implementation

The exclusion process falls into three stages:

Stage 1: Decision by the Head Teacher to exclude

Stage 2: Consideration of the Head Teacher's decision by the Local Academy Committee Panel

Stage 3: In the case of a permanent exclusion, and only if requested by parents Consideration of the Head Teacher's decision by an Independent Review Panel.

### Part A - The decision to exclude

The decision to exclude is made solely by the Head Teacher. There are five circumstances where a pupil may be required to leave the School site with the authorisation of the Head Teacher:

- where a decision has been made to exclude
- where a pupil has committed a serious criminal offence outside the jurisdiction of the School and it is determined by the Head Teacher that it is in the interests of the community for the pupil to be educated off-site. This is not an exclusion.

- where, for medical reasons, the presence of a pupil represents a serious risk to the health or safety of other pupils or staff. This is not an exclusion.
- if a pupil is given permission by the Head Teacher to leave the premises briefly to remedy a breach of the School rules on appearance or uniform. This should be for no longer than is necessary to remedy the breach and is not an exclusion, but an authorised absence.
- Where a pupil is asked to be screened for weapons and refuses to undergo screening. In this circumstance the pupil can be refused entry. This is not an exclusion, but an unauthorised absence.
- Schools across the Trust can direct a pupil off-site for education to improve their behaviour.

A pupil can also transfer to another school/school as part of a 'managed move'. The latter requires the consent of the parent/carer. This is not an exclusion.

The decision to exclude a pupil is not taken lightly and the Head Teacher will:

- ensure that a thorough investigation has been carried out
- consider all the evidence available to support the allegations
- allow and encourage the pupil to give their version of events
- keep a written record of the actions taken including the signed statements of witnesses

The standard of proof applied when deciding to exclude is 'on the balance of probabilities' (rather than 'beyond reasonable doubt'). The more serious the allegation, the more convincing the evidence substantiating the allegation needs to be.

Exclusion will not be used as a consequence for the following:

- minor incidents such as a failure to complete homework
- poor academic performance
- lateness or truancy
- breaches of School rules on uniform or appearance except where these are persistent or in open defiance of such rules
- pregnancy
- punishing a pupil for the behaviour of their parents

The school has the right to make decisions about behaviour taking place on trips, outings, sporting fixtures, or travel/movement in the vicinity of the school. Subject to the requirements of this policy, the Head Teacher may exclude pupils even if the circumstances giving rise to exclusion occur when the pupil is out of school.

The process of exclusion from school and criminal proceedings can and should run parallel. However, in certain circumstances it may be appropriate for a decision to permanently exclude to be postponed if a police investigation has not been concluded. In such circumstances, an extended suspension should be used.

### **Part B – The procedure following the decision to exclude**

Once the decision has been made to exclude, a pupil will only be sent home once contact has been made with the parent or guardian and where it is clear that the pupil will be returning to a place of safety or is collected (depending on the age of the pupil). Arrangements will be made to ensure provision for learning continues throughout the exclusion period. If the pupil

has a social worker or if a pupil is looked-after, the Headteacher will, without delay after their decision, notify the social worker and/or virtual school head (VSH), as applicable.

A letter will be sent to the parents of the excluded pupil within one school day of exclusion, outlining:

- Reasons for exclusion
- Period of a suspension or, for a permanent exclusion, the fact that it is permanent
- Parents'<sup>1</sup> right to make representations about the exclusion to the governing body and how the pupil may be involved in this.
- How any representations should be made
- Where there is a legal requirement for the Governing Body to consider the exclusion, that parents have a right to attend a meeting, be represented at this meeting and to bring a friend
- That for the first five school days of an exclusion (or until the start date of any alternative provision where this is earlier) parents are legally required to ensure that the pupil is not present in a public place during school hours without reasonable justification, and that parents may be given a fixed penalty notice or prosecuted if they fail to do so.
- Arrangements for alternative provision, where this is relevant

The Head Teacher will inform the Local Authority, without delay, of all suspensions or permanent exclusions, regardless of the length of suspension.

Within one school day of exclusion, the Headteacher will inform the Local Academy Committee in the following cases:

- all permanent exclusions (if the pupil resides in another authority, the home LA should also be informed)
- exclusions that would take the term's total for that pupil to more than five days
- exclusions that would result in the pupil missing a public examination or national curriculum test.

Schools within the Trust will keep a record of all exclusions for reporting to the DFE Census, and to the LAC on a termly basis.

Pupils who have been permanently excluded will not be deleted from the School Roll until the independent review panel process is completed, or the deadline for review is reached and no review has been applied for.

### **Part C – Suspension (Fixed Term Exclusion)**

The decision to suspend a pupil for a fixed-term may be taken in response to breaches of the school's Behaviour Policy.

Examples of behaviour that may lead to a suspension include the following:

- Verbal abuse of staff or pupils
- Physical abuse of staff or pupils
- Indecent behaviour
- Damage to property
- Persistent poor behaviour contrary to acceptable behaviour outlined in the Behaviour Policy

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<sup>1</sup> If pupils are 18 or above, they should be involved in the process, not their parents.



- Malicious accusations against school staff

This is not an exhaustive list and there may be other examples of behaviour where the Head Teacher deems that suspension is an appropriate sanction.

The Head Teacher may suspend a pupil for one or more fixed periods which does not exceed a total of 45 school days in any one school year.

During a suspension of 5 or fewer days, work will be set by the School for the pupil to complete at home. This work should be returned completed at the end of the suspension for marking.

For a suspension of longer than 5 days, the School will arrange full-time educational provision from the sixth day of exclusion. If a pupil is looked after, the school will provide full-time educational provision from the first day of exclusion.

Before the end of any suspension, parents<sup>2</sup> will be invited to attend a reintegration meeting at the School with their pupil. The purpose of the meeting is to ensure that the pupil understands the reason for the suspension and is committed to preventing the behaviour that led to the suspension from being repeated. The School will consider all further support needed to support the pupil, including referrals to external agencies. In a secondary school, the pupil will also spend a period of time on report to support their reintegration. The Head Teacher and member of SLT responsible for Behaviour are usually both present at this meeting, along with any other key staff.

During the first five days of any suspension, the parents of a suspended pupil must ensure that the suspended pupil is not present in a public place during normal school hours without reasonable justification, whether with or without a parent. A failure to comply with this is an offence for which a fixed penalty notice can be issued.

#### Part D – Permanent Exclusion

Permanent exclusion is an extremely rare sanction at the School and always avoided where possible. The decision to permanently exclude is taken only:

- in response to serious breaches of the School behaviour policy and
- if allowing the pupil to remain at the School would seriously harm the education or welfare of the pupil or others at the School

A pupil may be permanently excluded where there have been repeated breaches of the behaviour policy for which a range of consequences and strategies have been applied without success. It is an acknowledgement that the School has exhausted all available strategies for dealing with the pupil and is a last resort.

There may be exceptional circumstances where, in the judgement of the Head Teacher, it is appropriate to permanently exclude a pupil for a first or 'one off' offence. These might include:

- a serious breach of safety requirements likely to endanger other people or yourself
- use or possession of or supply of alcohol or illegal drugs within the academy premises or during academy organised activities
- removal or damage of academy property

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<sup>2</sup> If pupils are 18 or above, they should be involved in the process, not their parents.

- stealing from the academy, employees of the academy, or from pupils
- intentional damage to property
- abuse of the school's computer system and of the internet
- sexual misconduct, abuse, or assault
- serious actual or threatened violence or physical assault against another pupil, member of staff or worker in the academy
- carrying an offensive weapon (defined as any item made or adapted for causing injury)
- bullying and/or harassment including racial, sexual, or homophobic harassment
- wilful defiance of the properly exercised authority of the academy and its staff
- bringing the academy into disrepute or acting in a manner deliberately to undermine the school's principles or ethos.

The School operates a 'zero tolerance' approach to the carrying of offensive weapons, due to the seriousness of their impact on the School community. This is communicated clearly to pupils and families.

The Head Teacher will meet with the parents and pupil before reaching a decision to permanently exclude a pupil. Under normal circumstances, a pupil will be excluded for a fixed-term before the decision is made to permanently exclude.

### Cancelling suspensions and permanent exclusions

The headteacher may cancel a suspension or permanent exclusion that has not yet started, but this will only be done where it has not yet been reviewed by the governing board. Where there is a cancellation:

- Headteachers must tell parents/carers, the governing board, the local authority, and where appropriate, the pupil's social worker, and the virtual school head (VSH), why the suspension/exclusion was cancelled.
- Any days spent out of school before a cancellation will count towards a pupil's total number of days of suspension in a school year.
- Parents will be offered the opportunity to meet with the headteacher to discuss the cancellation
- As referred to above, the headteacher will report to the governing board once per term on the number of cancellations
- The pupil will be allowed back in school

## 10. Considering the reinstatement of a pupil

A Panel of 3 of the Local Academy Committee will consider and decide on the reinstatement of a suspended or permanently excluded pupil within 15 school days of receiving the notice of the suspension or exclusion if:

- The exclusion is permanent
- It is a suspension which would bring the pupil's total number of days out of school to more than 15 in a term; or
- It would result in a pupil missing a public exam or National Curriculum test

Where the pupil has been suspended, and the suspension does not bring the pupil's total number of days of suspension to more than 5 in a term, the Local Academy Committee Panel must

consider any representations made by parents. However, it is not required to arrange a meeting with parents and it cannot direct the headteacher to reinstate the pupil.

Where the pupil has been suspended for more than 5 days, but less than 16 days, in a single term, and the parents make representations to the board, Local Academy Committee Panel will consider and decide on the reinstatement of a suspended pupil within 50 school days of receiving notice of the suspension. If the parents do not make representations, the board is not required to meet within 50 days and it cannot direct the headteacher to reinstate the pupil.

Where a suspension or permanent exclusion would result in a pupil missing a public exam or National Curriculum test, Local Academy Committee Panel will, as far as reasonably practicable, consider and decide on the reinstatement of the pupil before the date of the exam or test. If this is not practicable, the Local Academy Committee Panel may consider the suspension or permanent exclusion and decide whether or not to reinstate the pupil.

The following parties will be invited to a meeting of the Local Academy Committee Panel and allowed to make representations or share information:

- Parents, or the pupil if they are 18 or over (and, where requested, a representative or friend)
- The pupil, if they are aged 17 or younger and it would be appropriate to their age and understanding (and, where requested, a representative or friend)
- The headteacher
- The pupil's social worker, if they have one
- The VSH, if the pupil is looked after

Face-to-face meetings remain the default, but meetings can be accessed remotely:

- At the request of parents/carers, or the pupil (they are aged 18 or above); or
- In the case of extraordinary unforeseen circumstances.

Parents/carers and pupils who are aged 18 or above, must be informed by the headteacher of their right to request a remote meeting.

The governing board will try to arrange the meeting within the statutory time limits set out above and must try to have it at a time that suits all relevant parties. However, its decision will not be invalid simply on the grounds that it was not made within these time limits.

The Local Academy Committee Panel can either:

- Decline to reinstate the pupil, or
- Direct the reinstatement of the pupil immediately, or on a particular date (except in cases where the board cannot do this – see earlier in this section)

In reaching a decision, Local Academy Committee Panel will consider:

- Whether the decision to suspend or permanently exclude was lawful, reasonable, and procedurally fair
- Whether the headteacher followed their legal duties
- The welfare and safeguarding of the pupil and their peers
- Any evidence that was presented to the governing board

They will decide whether or not a fact is true 'on the balance of probabilities'.

Minutes will be taken of the meeting, and a record kept of the evidence that was considered. The outcome will also be recorded on the pupil's educational record, and copies of relevant papers will be kept with this record.

The Local Academy Committee Panel will notify, in writing, the following stakeholders of its decision, along with reasons for its decision, without delay:

- The parents, or the pupil, if they are 18 or older
- The headteacher
- The pupil's social worker, if they have one
- The VSH, if the pupil is looked after
- The local authority
- The pupil's home authority, if it differs from the school's

Where an exclusion is permanent and the Local Academy Committee Panel has decided not to reinstate the pupil, the notification of decision will also include the following:

- The fact that it is a permanent exclusion
- Notice of parents' right to ask for the decision to be reviewed by an independent review panel
- The date by which an application for an independent review must be made (15 school days from the date on which notice in writing of the governing board's decision is given to parents)
- The name and address to which an application for a review and any written evidence should be submitted
- That any application should set out the grounds on which it is being made and that, where appropriate, it should include reference to how the pupil's special educational needs (SEN) are considered to be relevant to the permanent exclusion
- That, regardless of whether the excluded pupil has recognised SEN, parents have a right to require the academy trust to appoint an SEN expert to advise the review panel
- Details of the role of the SEN expert and that there would be no cost to parents for this appointment
- That parents must make clear if they wish for an SEN 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 permanent exclusion has occurred as a result of unlawful 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. Also that any 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.

## 11. Independent Review

If parents apply for an independent review within the legal timeframe, the academy trust will arrange for an independent panel to review the decision of the governing board 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 Local Academy Committee Panel of its decision to not reinstate the pupil **or**, if

after this time, within 15 school days of the final determination of a claim of discrimination under the Equality Act 2010 regarding the permanent exclusion.

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 governor category and 2 members will come from the headteacher category. At all times during the review process there must be the required representation on the panel:

- 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
- Current or former 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 director of the academy trust 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 governing board, 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, governing board, 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 1 for what training must cover)

Face-to-face meetings remain the default, but meetings can be accessed remotely:

- At the request of parents/carers, or the pupil (they are aged 18 or above); or
- In the case of extraordinary unforeseen circumstances.

Parents/carers and pupils who are aged 18 or above, must be informed by the headteacher of their right to request a remote meeting.

The panel must consider the interests and circumstances of the pupil, including the circumstances in which the pupil was permanently excluded, and have regard to the interests of other pupils and people working at the school.

Taking into account the pupil's age and understanding, the pupil or their parents will be made aware of their right to attend and participate in the review meeting and the pupil should be enabled to make representations on their own behalf, should they desire to.

Where a SEN expert is present, the panel must seek and have regard to the SEN expert's view of how SEN may be relevant to the pupil's permanent exclusion.

Where a social worker is present, the panel must have regard to any representation made by the social worker of how the pupil's experiences, needs, safeguarding risks and/or welfare may be relevant to the pupil's permanent exclusion.

Where a VSH is present, the panel must have regard to any representation made by the social worker of how any of the child's background, education and safeguarding needs were considered by the headteacher in the lead up to the permanent exclusion, or are relevant to the pupil's permanent exclusion.

Following its review, the independent panel will decide to do 1 of the following:

- Uphold the governing board's decision
- Recommend that the governing board reconsiders reinstatement
- Quash the governing board's decision and direct that they reconsider reinstatement (only if it judges that the decision was flawed)

New evidence may be presented, though the school cannot introduce new reasons for the permanent exclusion or the decision not to reinstate. The panel must disregard any new reasons that are introduced.

In deciding whether the decision was flawed, and therefore whether to quash the decision not to reinstate, the panel must only take account of the evidence that was available to the governing board at the time of making its decision. This includes any evidence that the panel considers would, or should, have been available to the governing board and that it ought to have considered if it had been acting reasonably.

If evidence is presented that the panel considers it is unreasonable to expect the governing board to have been aware of at the time of its decision, the panel can take account of the evidence when deciding whether to recommend that the governing board reconsider reinstatement.

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

Once the panel has reached its decision, the panel will notify all parties in writing without delay.

This notification will include:

- The panel's decision and the reasons for it
- Where relevant, details of any financial readjustment or payment to be made if the governing board does not subsequently decide to offer to reinstate the pupil within 10 school days
- Any information that the panel has directed the governing board to place on the pupil's educational record