



# Bright Futures

EDUCATIONAL TRUST

The best *for* everyone, the best *from* everyone

## Suspension and Permanent Exclusions Policy

This is a Trust-Wide Schools Policy

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## SUSPENSIONS AND PERMANENT EXCLUSIONS POLICY

Bright Futures Educational Trust's (Bright Futures or the Trust) Strategy underpins all aspects of this policy and the way in which it will be applied. The elements of the strategy that apply particularly are:

Our vision: the best for everyone and the best from everyone.

Two of our values: Integrity: We do the right things for the right reasons. Passion: We take responsibility, work hard and have high aspirations.

Our commitments: Supportive, challenging and fair; strong governance and accountability, united behind decisions, equality, diversity and inclusion and effective communication.

At Bright Futures, we aim to promote inclusion for all our pupils and we are committed to the recognition of the equal value of every pupil. Exclusions of pupils from a school, whether suspensions or a permanent exclusion, can be damaging to the educational outcomes, self-esteem, well-being and life chances of the individual involved. This policy is underpinned by the shared commitment to achieve the following two important aims:

- to ensure the safety and well-being of all in the Trust and to maintain an appropriate educational environment in which all can learn and succeed.
- that all academies seek to avoid exclusions unless considered absolutely necessary.

### What is this Policy for?

This policy is intended as guidance for all staff and local governors and follows the guidance from the DfE 'Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement (May 2023)' 'This policy should be read in conjunction with the academy's own policies of:

- Teaching and learning
- Special educational needs
- Health and safety
- Behaviour
- Safeguarding

This policy provides all staff with a clear framework to enable the effective handling of pupil exclusion issues and to inform all stakeholders of the procedures. The DfE guidance 'Behaviour in Schools' should be considered alongside this policy. This guidance provides advice on implementing a behaviour policy which creates a school culture with high expectations of behaviour. Suspensions and permanent exclusions should only be necessary when strategies, practices and interventions have not been successful in improving pupil's behaviour.

Please refer to The DfE guidance [School suspensions and permanent exclusions - GOV.UK](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/781111/suspension-and-permanent-exclusion-from-maintained-schools-academies-and-pupil-referral-units-in-england-including-pupil-movement-may-2023.pdf) ([www.gov.uk](https://www.gov.uk))

## Suspensions and Permanent Exclusions Policy – Brief overview

This information is set out in statutory guidance from the Department for Education (DfE). It applies to all maintained schools, academies, and pupil referral units in England. The summary contained on page 2 and the top of page 3 is part of the suspension and permanent exclusions policy and is merely to serve as a useful guide. Nothing in this summary is intended to override the substantive provisions of the policy, which are contained from page 3 onwards of this document.

\*Where the term 'Principal' is used it refers equally to the Head of School.

**SUMMARY OVERVIEW:** The school's exclusion procedure consists of different stages:

### **Stage 1: Decision to exclude**

A decision to exclude must be lawful, reasonable, fair, rational and proportionate. For a suspension this would normally be used for:

- A first serious offence
- The welfare of other pupils, staff, or the pupil themselves is at risk
- When the behaviour of the pupil outside the school is such that it can be considered grounds for exclusion

A decision to permanently exclude a pupil will be taken:

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

A pupil may be suspended for one or more fixed periods, up to a maximum of 45 school days in a single academic year. They can also be excluded permanently.

### **Stage 2: Exclusion procedure**

On suspending a pupil, the Principal must immediately notify parents of the period of the exclusion and the reasons for it. A written confirmation of the reason(s) for the exclusion will also be sent to the parents/carers on the same day. If the pupil being excluded is aged 18 then reference to notifying parents should be read as notifying the pupil. Please note that we would not provide any information on the exclusion to a parent once a pupil reaches 18 unless we have express consent from the pupil. This is because parents lose their parental responsibility in law once a young person attains the age of 18.

The pupil will have the reason for their exclusion explained to them by a member of staff.

For further information about notifications of an, please refer to section 3 of this policy, on pages 4 and 5.

### **Stage 3: Review**

#### **Local governing body review**

All exclusions must be reviewed by the local governing body. A local governing body review must

take place for the following:

- permanent exclusions;
- if the suspension brings the total number of school days to more than 15 in one term; or if it would result in the pupil missing a public exam.

For further information about reviews by the local governing body, please refer to section 7 in this policy, on pages 6 and 7.

### **Independent review panel – permanent exclusions**

Where parents/carers dispute the decision of a governing body not to reinstate a permanently excluded pupil, they can ask for this decision to be reviewed by an independent review panel. The panel do not have the power to reinstate the excluded pupil but it can quash a decision and direct a local governing body to reconsider or recommend reconsidering.

For further information about the independent review panel, please refer to section 8 in this policy, on pages 7 and 8.

### **Who is this policy for?**

All staff, local governors and parents/carers

### **Policy Standards**

Good discipline in schools is essential to ensure that all pupils can benefit from the opportunities provided in school. The Trust supports Principals in using suspensions as a sanction where it is warranted. However, permanent exclusion should only be used as a last resort, in response to a serious breach 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 the pupil or others in the school.

#### **1. When would a Suspension be used?**

Suspension would normally be used:

- For a major first offence, such as serious actual or threatened violence, criminal damage to academy property, sexual abuse or assault, supplying banned substances or carrying an offensive weapon.
- Where allowing a pupil to remain in the school would be seriously detrimental to the education of other pupils, to the welfare of other pupils, staff, or of the pupil themselves.
- More usually it follows a series of breaches of the school's disciplinary code and after a range of strategies to resolve the pupil's disciplinary problems have been tried and have failed.
- When the behaviour of pupils outside the school is such that it can be considered as grounds for suspension.

The headteacher may cancel an exclusion that has already begun, but this should only be done where it has not yet been reviewed by the governing body. Where an exclusion is cancelled, then:

- parents, the governing body, and the LA should be notified without delay and, if relevant,

- the social worker and the VSH
- Parents should be offered the opportunity to meet with the headteacher to discuss the circumstances that led to the exclusion being cancelled.
- Schools should report to the governing body once per term on the number of exclusions and the reasons for the cancellation enabling governing bodies to have appropriate oversight and:

The local authority must be informed without delay of all school exclusions regardless of the length of the exclusion.

For a permanent exclusion, if the pupil lives outside the local authority area in which the school is located, the headteacher must also notify the pupil's 'home authority' of the permanent exclusion and the reason(s) for it without delay. The headteacher must also inform the governing board once per term of any other suspensions of which they have not previously been notified.

Notifications must include the reason(s) for the suspension or permanent exclusion and the duration of any suspension or, in the case of a permanent exclusion the fact that it is permanent.

The local authority may reasonably wish to request this

The headteacher must, without delay, notify the governing body of:

- any permanent exclusion (including where a suspension is followed by a decision to permanently exclude the pupil);
- any suspension or permanent exclusion which would result in the pupil being suspended or permanently excluded for a total of more than five school days (or more than ten periods within a school day) in a term; and
- any suspension or permanent exclusion which would result in the pupil missing a public examination or national curriculum test.

If there is an ongoing safeguarding investigation (whether that includes a criminal investigation or not) that may result in the permanent exclusion of a pupil or if a pupil has been reinstated following a governing body review, it is likely that there will be complex and difficult decisions that need to be made. It is important that these decisions are made alongside a school's duty to safeguard and support children and their duty to provide an education.

Schools should support pupils to reintegrate successfully into school life and full-time education following a suspension or period of off-site direction. They should design a reintegration strategy that offers the pupil a fresh start; helps them understand the impact of their behaviour on themselves and others; teaches them to how meet the high expectations of behaviour in line with the school culture; fosters a renewed sense of belonging within the school community; and builds engagement with learning.

A managed move is used to initiate a process which leads to the transfer of a pupil to another mainstream school permanently. Managed moves should be voluntary and agreed with all parties involved, including the parents and the admission authority of the new school. If a temporary move

needs to occur to improve a pupil's behaviour, then off-site direction should be used. Managed moves should only occur when it is in the pupil's best interests.

Where interventions or targeted support have not been successful in improving a pupil's behaviour, off-site direction should be used as a measure to improve behaviour and should arrange time-limited placements at an AP or another mainstream school. During the off-site direction to another school, pupils must be dual registered. Code B should be used for any off-site educational activity, if the provision is an approved educational activity that does not involve the pupil being registered at any other school.

## **2. Principles of the Suspensions and Permanent Exclusions Policy**

The decision to exclude a pupil must be lawful, reasonable, fair, rationale and proportionate. Schools have a statutory duty not to discriminate against pupils on the basis of protected characteristics, such as disability or race. Schools should give particular consideration to the fair treatment of pupils from groups who are particularly vulnerable to exclusion.

Disruptive behaviour can be an indication of unmet needs. Where a school has concerns about a pupil's behaviour, they should try to identify whether there are any causal factors and intervene early in order to reduce the need for a subsequent exclusion. In this situation, schools should consider whether a multi-agency assessment that goes beyond the pupil's educational needs is required.

Schools should have a strategy for reintegrating a pupil who returns to school following a fixed-period suspension and for managing their future behaviour.

A fixed term suspension from the school can only be authorised by the Principal (or the Vice Principal acting on their behalf). If neither are available to authorise the suspension, a decision should be deferred until the opportunity for authorisation is available. In the case of a permanent exclusion this can only be authorised by the Principal. This decision may not be delegated to anyone else.

If the Principal decides to exclude a pupil, they will always ensure that there is sufficient recorded evidence to support the decision and the rationale for decision-making. All the evidence must be very carefully assessed and collated.

Records will be kept of all exclusion proceedings in respect of any permanent exclusion. Records from fixed term suspensions may form part of the evidence in a permanent exclusion process.

When considering exclusion, the Principal will take into account:

- Possible short-term or other mitigating circumstances such as bereavement, mental health issues etc.
- Whether the pupil comes into a category that is known to be a particularly vulnerable group (e.g. pupils with SEND, FSM pupils; looked after children; certain ethnic groups; Traveller children) and whether all preventative strategies have been fully utilised with good impact.

- Whether a pupil has already had a number of fixed term suspensions which appear to be ineffective and any analysis undertaken about the child's response to previous exclusions

A suspension will not be enforced if doing so may put the safety of the pupil at risk. Suspensions will never be used informally or unofficially. This is against the law. We will take care to ensure that a decision to exclude does not involve any kind of discrimination as defined by the Equality Act 2010: <https://www.gov.uk/guidance/equality-act-2010-guidance>

## **Cancelling**

The Principal may cancel any exclusion that has already begun, but this should only be done where it has not yet been reviewed by the governing body. Where an exclusion is cancelled, then:

- The Principal must notify the parents, the governing body, the LA and the pupil's social worker and VSH as applicable, without delay. The notification must also provide the reason for the cancellation
- The governing body's duty to consider reinstatement ceases, and there is no requirement to hold a meeting to consider reinstatement
- Parents (or the excluded pupil if they are 18 years or older) should be offered the opportunity to meet the Principal to discuss the circumstances that led to the exclusion being cancelled
- The pupil must be allowed back into the school without delay. Any days spent out of school as a result of any exclusion, prior to the cancellation will count towards the maximum of 45 school days permitted in any school year
- Schools should report to the governing body once per term on the number of exclusions which have been cancelled. This should include the circumstances and reasons for the cancellation enabling governing bodies to have appropriate oversight. In the case of a cancelled suspension/exclusion, the governing body's duty to consider reinstatement stops so it doesn't need to meet.

Please note that were a pupil has been permanently excluded and has already served 45 days of suspension (or would have at the point that cancellation is being considered) the power to cancel cannot be exercised and a governors' review must take place.

The Principal and local governing body must comply with their statutory duties in relation to special educational needs when administering the exclusion process. This includes having regard to the SEND Code of Practice: <https://www.gov.uk/government/publications/send-code-of-practice-0-to-25>

For further information on the guide to the Law and the Principal's power to exclude, please see DfE guidance: [School suspensions and permanent exclusions - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/school-suspensions-and-permanent-exclusions)

### **3. Notification of a Suspension**

Parents/Carers will be notified as soon as possible of the decision to suspend a pupil and the reason for the suspension. This will be done on the day of the suspension being authorised by either direct phone contact or a face-to-face meeting. A written confirmation of the reason(s) for the suspension will be sent to parents/carers the same day.

In the case of a permanent exclusion, parents/carers will be notified by the Principal/Head of School in a face-to-face meeting.

A pupil who has been suspended will have the reason for his/her suspension explained to them by a member of staff, in a way that allows them to understand the nature of their misbehaviour and the reason for the suspension.

The school will also work to put in place a programme for the pupil on their return. This will include input from staff at the school, parents/carers and, if appropriate, any other appropriate bodies e.g. Child and Adolescent Mental Health Services, social care. Should it be decided (for whatever reason) that the child subject to suspension needs to be referred to another agency (e.g. the incident leads to the discovery that there is a child protection issue) the school will continue to monitor the situation and work closely with that agency. All reasonable efforts will be made to ensure that the child is safe. It is hoped that in most cases following an suspension, the pupil will be able to successfully return to school. Multi-agency involvement may well support a positive re-integration.

Relevant school staff will be notified of all suspensions and should receive a copy of the suspension letter; it will clearly outline the reasons for the suspension. Such information should be treated sensitively and kept confidential.

In cases of more than a day's suspension, the school will ensure that appropriate work is set and that arrangements are in place for it to be marked.

It is the school's duty to arrange education from the sixth day of a suspension. This would be triggered by a suspension totalling more than five days. The Principal must by law inform the parents/carers without delay of the start date, times and venue of the provision. This must be done no later than 48 hours before the alternative provision is to start.

### **4. Action Following a Suspension**

Following any exclusion of whatever type or duration, the Principal will:

- Inform the parents/carers of the period and nature of the suspension, clearly outlining the reason for the suspension. Parents/carers should always be advised about rights of representation about the suspension to the local governing body and how these representations may be made.
- Parents/carers can request a meeting required by law to review a suspension to be held via the use of remote access. In the absence of a request the meeting must be held in person unless it is not reasonably practicable to do so for a reason related to extraordinary events or unforeseen circumstances such as an unforeseen school closure due to floods, fire or outbreak of infectious illness/disease.

- This information will be put in writing and will be sent either by e-mail, by text, by delivering a letter directly to the parents/carers, leaving it at their last known address or by posting it to their last known address. The information can also legally be sent home with the suspended pupil, but the academy will always send a duplicate copy by a reliable alternative method. The information provided to parents/carers will be clear and free of unnecessary jargon.
- Where the suspended pupil is of compulsory school age, the school will also notify parents/carers without delay, and at the latest by the end of the afternoon session, that for the first five days of a suspension they are legally required to ensure that their child is not in a public place during school hours without reasonable justification and that they may be given a fixed penalty notice if they fail to do so.
- 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 fixed-period 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 fixed period. In such cases, the Principal must write again to the parents/carers explaining the reasons for the change and providing any additional information required.
- All pupils returning from a fixed term suspension are required to attend a reintegration meeting, accompanied by a parent/carer. This meeting will seek to establish practical ways in which further suspension can be avoided and behaviour modified to acceptable standards in partnership between pupil, parent/carer and school.

## **5. Informing other Agencies/Bodies**

For any suspension or a permanent exclusion, the Principal will also:

- Notify the Local Authority (LA) and the Trust’s Director of Education giving the details of the suspension/permanent exclusion and reasons for it.
- Notify the chair of the local governing body, giving the same details
- For a permanent exclusion, if the pupil lives outside the local authority in which the school is located, the Principal must also inform the ‘home authority’ of the exclusion without delay.
- If any suspension, of even one day, would cause a pupil to miss a public examination, the Principal will inform the Trust’s Director of Education and the Chair of the Local Governing Body that this is the case and without delay.

## **6. The Role of the Local Governing Body**

The local governing body for each school will be fully informed and involved with these procedures. The Principal will inform the local governing body, the Trust’s Director of Education and the LA within one school day of any permanent exclusions, suspensions longer than five school days (singly or cumulatively) or more than 10 lunchtimes in a term, and those which will result in a pupil missing a public examination.

## **7. Procedure for Appeal**

The local governing body has a duty to consider the representations of the parents/carers about a suspension. If the pupil is aged 18 or over, they may represent themselves, provided there is parental agreement.

All correspondence regarding a suspension from the school will inform parents of their right to appeal to the local governing body against the decision to suspend. This procedure is clearly set out in the statutory guidance. The person who should be contacted to initiate an appeal is the Clerk to the local governing body.

The local governing body must consider the reinstatement of an suspended pupil within 15 working days of receiving the notice of the suspension if:

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

In view of their consideration, the local governing body can uphold a suspension or direct reinstatement of the pupil immediately or on a particular date.

The requirements are different for suspensions where a pupil would be suspended for more than five but less than 15.5 school days in a term. In this case, if the parents make representations, the governing board must consider and decide within 50 school days of receiving the notice of suspension whether the suspended pupil should be reinstated. In the absence of any representations from the parents, the governing board is not required to meet and cannot direct the reinstatement of the pupil.

In the case of a suspension which does not bring the pupil's total number of days of suspension 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.

## **8. Independent Review Panel**

Where parents/carers dispute the decision of a local governing body not to reinstate a permanently excluded pupil, they can ask for this decision to be reviewed by an independent review panel.

An independent review panel does not have the power to direct a local governing body to reinstate a [permanently](#) excluded pupil. However, where a panel decides that a local governing body's decision is flawed (when considered in the light of the principles applicable on an application for judicial review) it can direct a governing board to reconsider its decision.

The Trust will arrange for an independent panel to review the decision of the exclusions panel 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 exclusions panel of

its decision to not reinstate a pupil. Applications should be made to the Trust via email: [admin@bright-futures.co.uk](mailto:admin@bright-futures.co.uk)

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.

- 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 or a trustee of Bright Futures Educational Trust, or a governor of any of the Trust's academies.
- Are the Headteacher of the excluding school or have held this position in the last 5 years.
- Are an employee of the Trust.
- Have, or at any time have had, any connection with the Trust, academy, parents or pupil, of 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 (the contents of this training is stipulated in the statutory guidance).

A clerk will be appointed to the panel.

**The independent panel will:**

- Uphold the governing body's decision
- Recommend that the governing body reconsiders reinstatement, or
- Quash the governing body'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.

Whether or not a school recognises a pupil as having SEN, all parents/carers have the right to request the presence of a SEN expert at a review meeting. The SEN expert's role is to

advise the review panel, orally or in writing or both, impartially, of the relevance of SEN in the context and circumstances of the review. For example, they may advise whether the school acted reasonably in relation to its legal duties when permanently excluding the pupil. Excluded pupils should be enabled and encouraged to participate at all stages of the exclusion process, taking into account their age and ability to understand.

Bright Futures Educational Trust is responsible for managing and training independent panels concerning cases of permanent exclusion. Independent review panel members are expected to understand the legislation that is relevant to suspensions and permanent exclusions and the legal principles that apply. The SEN expert must be someone with expertise and experience of SEN and be considered by the Trust as appropriate to perform the functions specified in the legislation.

When providing details of the role of the SEN expert in an independent review panel, the local governing body should explain that there is no cost to parents/carers for this appointment and parents/carers must make it clear in any application for a review if they wish for the expert to be appointed.

The panel's decision should not be influenced by any stated intention of the parents/carers or pupil not to return to the school. If parents/carers are not considering the reinstatement of the pupil, the panel should acknowledge this but it should not affect the conduct of the panel or its decision. The focus of the panel's decision is whether there are sufficient grounds for them to direct or recommend that the local governing body reconsiders its decision to uphold the permanent exclusion. Potential outcomes can still include:

- Recording the panel's findings on a pupil's educational record.
- An acknowledgement by the local governing body that it would be appropriate for it to offer to reinstate the pupil

Where a school is going to delete a pupil's name from the admissions register because of a permanent exclusion, the school must make a return to the LA and the Trust's Director of Education. It must be made as soon as the grounds for deletion are met.

Schools should co-operate with the LA's head of virtual school for suspension and permanent exclusions of looked after children.

When the local governing body is considering whether a pupil should be reinstated, it should consider any evidence that was presented in relation to the decision to suspend (in addition to considering whether the decision to suspend the pupil was lawful, reasonable and procedurally fair, rational and proportionate and whether the Principal followed their legal duties).

The legal time frame for an application is:

Within 15 school days of notice being given to the parents by the governing body of its decision not to reinstate a permanently exclude pupil.

Where an application has not been made within this timeframe, within 15 school days of the final determination of a claim of discrimination under the Equality Act 2010 in relation to permanent exclusions.

An application made outside of the legal time frame must be rejected by the academy trust.

For more information on independent review panels, see Part nine 'Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement (July 2022) paragraphs 148-196.

## **9. Review and Monitoring**

The impact of this policy will be reviewed by the Executive Team in consultation with Principals. The policy and procedures will be reviewed and amended in the light of such evaluation, in consultation with representatives of all key stakeholders and will reflect the statutory guidance.

## APPENDIX A

### Request an Independent Review Panel

#### Introduction

Bright Futures Educational Trust is required to make arrangements for parents to apply for a review of the decision of the governing body exclusion review panel not to reinstate a pupil who has been permanently excluded from one of its academies. This guide will help you decide whether or not to apply for a Review of the decision to permanently exclude your son/daughter.

#### Who has the right to apply for a Review?

The “relevant person”, defined as:

- (i) Where a pupil has reached the age of 18 it is the pupil him/herself; or
- (ii) Where a pupil is under 18, his/her parent.

Under the Education Act, the definition of “parent” is broad. In addition to a child’s birth parents, it includes any person who has parental responsibility (which includes the local authority where it has a care order in respect of the child) and any person who the child lives with e.g. a foster carer.

#### What powers does the Independent Review Panel have?

- An Independent Review Panel (IRP) **cannot** reinstate your child.
- The Independent Review Panel **can** direct or recommend the governing body exclusion review panel to review or *reconsider* its decision to permanently exclude and/or ask for its comments to be added to your child’s record.
- You may have the decision reviewed by an Independent Review Panel even if you do not want your son/daughter to return to the excluding academy.
- You can apply for a Review even if you did not make a case to, or attend, the meeting at which the governing council exclusion review panel considered your child’s permanent exclusion. An IRP of three people (who have no connections with the Academy) will hear your Review.
- The IRP carefully considers your case and that of the Academy.

#### Are there circumstances where I do not have a right to a Review Hearing?

Yes. There are two circumstances:

1. You lose your right to a Review Hearing if your application is received after the 15th school day after the day on which you are informed, in writing, of the governing body exclusion review panels’ decision not to reinstate your child (unless you are pursuing a claim for discrimination in which case you must apply 15 schools days from the Tribunal’s determination of the claim).
2. If you withdraw your application for a Review, you also lose your right to a hearing.

Make sure you send your application for Review as soon as possible after you receive the letter from the governing body exclusion review panel telling you your son/daughter has not been reinstated. You must include the reasons for seeking to review the Governor’s decision.

## How do I apply for a Review?

1. You should fill in a request for an IRP form. Follow the link to download the form:  
<https://www.bright-futures.co.uk/wp-content/uploads/2023/09/Application-for-Independent-Review.docx>
2. You must set out your reasons for applying for a Review in writing and, if relevant, state how you consider your child's SEN are relevant to the exclusion.
3. Whether or not your child has recognised special educational needs, you have a right to require that the Trust appoints a SEN expert to attend the Review.
4. You must request an SEN expert attend the Review Hearing at the time you apply for a Review of the Governors'/Proprietors' decision.
5. Sign and date the form.
6. Send your completed form to: **ghandforth@bright-futures.co.uk**

We must receive the application form within 15 school days of the date you received the governing body exclusion review panel's decision letter, unless you have received a final order from The First Tier Tribunal (Special Educational Needs and Disability) which sets out the the Academy has discriminated against the child under the Equality Act 2010. This is a hard rule and we have no legal power to extend this date, regardless of your reasons for missing the deadline.

## When will my Review be heard?

The IRP must meet to consider your application for Review no later than the 15th school day after the day on which your application was received. However, an IRP may start within the 15 school day period and immediately adjourn the hearing if there is good reason e.g. SEN expert unavailable to attend or there are parallel criminal proceedings.

## Who will be at the Review Hearing?

- You and your partner and, if you wish, your son or daughter;
- Where requested, a friend; representative or legal adviser (who would attend at your own cost);
- The Independent Review Panel (3 members);
- The Clerk to the Review Panel;
- If attending, the legal or other representative of the Governing Council;
- The Head Teacher/Principal of your son's/daughter's academy;
- Any witnesses called by either the academy or by you;
- A SEN expert, but only when you requested one to attend at the time you lodged your application for Review.
- If requested, an interpreter.

## Who is the SEN expert?

The SEN expert will be someone with appropriate expertise and experience of special educational needs (SEN). The final decision on the appointment of the SEN expert is for the LA/Academy to make but the LA/Academy should take reasonable steps to ensure you have confidence in the impartiality and capability of the SEN expert.

He or she will not have, or at any time have had, any connection with the Academy, or the incident leading to the exclusion, which might raise doubts about their ability to act impartially. He/she will not have any connection with you or your child (or his/her sibling). The SEN expert must also declare any known conflict of interest before the start of the Review Hearing. Current legislation states that individuals are not automatically taken to be partial simply because they are an employee of, or contracted by, a local authority or Academy Trust.

The SEN expert's role will **not** include making an assessment of your child's special educational needs.

### **Who are the Independent Review Panel members?**

The IRP will have three members and:

- One must be, or have been within the previous five years, a Head Teacher/Principal;
- One must be a governor, provided they have served in that capacity for at least 12 consecutive months within the last five years.
- One must be a lay person, that is, someone who has never worked in a school in a paid capacity (disregarding any experience as a school governor or volunteer).

The Lay member **must** be the Chairman of the Panel. All the IRP members (and their clerk) will have received the required training.

Anyone who has, or has had, a connection with the school or with any of the parties involved in the case cannot sit on the Independent Review Panel.

### **What powers does the Independent Review Panel have?**

The IRP does not have the power to reinstate your child but can decide to:

- uphold the exclusion i.e. refuse your application; or
- recommend that the governing body exclusion review panel reconsiders their decision; or
- quash the decision and direct that the governing body exclusion review panel considers the exclusion again.

The IRP may only quash the decision on the principles applicable to judicial Review. Therefore, the IRP should apply the following tests:

- **Illegality** – did the governing body exclusion review panel act outside the scope of their legal powers in taking the decision to exclude?
- **Irrationality** – did the governing body exclusion review panel fail to take account of all relevant points, or make a decision so unreasonable that no governing board acting reasonably in such circumstances could have made it?
- **Procedural Impropriety** – was the governing body exclusion review panels' consideration so procedurally unfair or flawed that justice was clearly not done?

Procedural impropriety means not simply a breach of minor points of procedure but something that has a significant impact on the quality of the decision making process. This may include (but is not limited to);

- Bias;
- Failing to notify parents of their right to make representations;
- the governing council exclusion review panel making a decision without having given parents an opportunity to make representations;
- Failing to give reasons for a decision; or
- Being a judge in your own cause e.g. if the Headteacher who took the decision to exclude were also to vote on whether to uphold the exclusion.

The IRP may also:

- (a) direct the governing body exclusion review panel to place a note on your child's educational record;
- (b) in the case of a the governing body exclusion review panels' decision, order that a readjustment be made to the school's budget or, in the case of an Academy, order that the Academy must make a payment directly to the local authority in which the Academy is located, if following a decision by the IRP to **quash** the original decision, the governing body exclusion review panel:
  - (i) reconsiders the exclusion and decides not to reinstate your child (where you want your child to be reinstated), or
  - (ii) fails to reconsider the exclusion within 10 school days after notification of the IRP's decision.

### **What other routes can I pursue?**

In addition to the right to apply for a Review to be heard by an IRP, under the Equality Act 2010, if you believe the exclusion has occurred for a reason related to your child's disability, you can make a disability discrimination claim to the First-tier Tribunal Health, Education & Social Chamber (Special Educational Needs and Disability). You must lodge your claim within 6 months of the date your child was permanently excluded.

Also, if you consider that your child has been victimised, or directly or indirectly discriminated against on e.g. racial or other grounds, you can make a discrimination claim to the County Court, which you must lodge within six months of the date your child was permanently excluded.

You can make a claim of discrimination to the First-tier Tribunal and/or County Court before deciding to apply for a Review hearing. Where this is the case you must apply for a Review hearing within 15 school days of the date the discrimination claim is finally determined. Where you make such claims at the same time as applying for the IRP to Review the decision to permanently exclude your child, the arrangements for the Review hearing must not be delayed or postponed.

### **When will I hear the outcome of the Review hearing?**

The Clerk will write to you, the Head Teacher, and the governing council exclusion review panel detailing the IRP's decision as soon as possible after the IRP has decided on your case.

### **Is the Review Panel's decision binding on anybody?**

Yes. The IRP's decision is binding on the: Governors; Head Teacher; LA; and the academy trust. DfE guidance states that where the IRP directs or recommends that the Governing Body reconsiders

their decision, the governing body exclusion review panel must reconvene to do so within 10 school days of being given notice of the IRP's decision.

However, where you or the academy apply for a judicial Review of the IRP's decision and are successful in that application, the High Court may order a re-hearing of the Review.

**What happens if I need an interpreter/signer or other help?**

You may have an interpreter or signer at your Review hearing. If you would like us to arrange this for you, free of charge, please indicate this on the form or contact us directly well before the hearing. Alternatively, if you would prefer, you may arrange for your own interpreter/signer to come with you, please contact us to discuss.

## APPENDIX B

### Application for Independent Review

Please complete in block letters and black ink.

1. Full Name of Parent or Guardian \_\_\_\_\_
2. Home address \_\_\_\_\_
3. Mobile/ Daytime Telephone Number \_\_\_\_\_
4. Email address \_\_\_\_\_
5. Full Name of Excluded Pupil and Date of Birth \_\_\_\_\_
6. Date of Governing Body Meeting \_\_\_\_\_
7. Name of the academy which the student has been excluded from  
\_\_\_\_\_
8. Do you wish to attend the hearing? YES/NO
9. Do you wish to request the appointment of an independent Special educational needs (SEN) expert at the hearing? YES/NO
10. If you have a disability and/or need assistance, please give details below:
11. If you need an interpreter or signer, please give details below, including language:
12. Do you wish to be represented at the hearing? YES/NO
13. If you wish to be represented, please give the following details:

- Name of your representative
- Occupation of representative
- Address of representative
- Telephone Number

14. Please state if you will be legally represented and, if so, the name and organisation or your legal representative:

15. If you wish to bring a witness or witnesses to the hearing please give the following details:

- Name:
- Occupation
- Address

16. If you wish to bring a witness or witnesses to the hearing please give your reasons:

17. Please state briefly the nature of the evidence your witness or witnesses will provide:

18. Reasons for applying for an independent review. You must put your reasons - (attach extra sheets if necessary)

19. Do you feel your child has been discriminated against for any reason? If yes, please give details (attach extra sheets if necessary)

20. Any other information you consider relevant to the Review. Please attach any supporting evidence to this form.

Declaration and Signature of Parent/Carer I wish to exercise my right to request an independent review.

I certify that I am the person with parental responsibility for the child named in section 3 and the information given is true to the best of my knowledge and belief.

I understand that if I do not attend the hearing and I do not send a representative my review will be heard in my absence using the information I have supplied on this form along with any other information I have sent to the Trust before my hearing date.

I understand that any evidence submitted after the stated deadline may not be considered at my appeal hearing.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

This form must be received within 15 school days of the date of notice from the governing council's exclusion review panel of their decision that your child should not be reinstated at the academy.

Please send it to [admin@bright-futures.co.uk](mailto:admin@bright-futures.co.uk)

## APPENDIX C

### How to fill out an 'IRP Request' form - guidance document

#### Questions 1 -4

Please give your full name, home address, mobile and/or daytime telephone number and email address. If you wish correspondence to be sent to another address, please include a note of that address.

#### Question 5

Please ensure that your child's full name and date of birth is inserted.

#### Question 6

Insert the date that the governor's met to discuss the permanent exclusion.

#### Question 7

Please state the name of the academy from which your child has been permanently excluded.

#### Questions 8

You are strongly recommended to attend the IRP hearing in person to present your case.

#### Questions 9 & 10

Please indicate if you wish for an SEN expert to attend your appeal hearing. Please indicate if you wish for an LA representative to attend your appeal hearing. Please note that the LA representative can only act as an observer and may only make representations if agreed by the excluding academy.

#### Question 10 & 11

Please give details in the spaces provided if you have a disability and need assistance. If you require an interpreter, please state which language you speak if you wish us to arrange an interpreter to be present at your appeal hearing. Please also give details if you require us to arrange a signer to be present at your appeal hearing. Please note you may arrange for your own interpreter or signer if you prefer.

Questions 12-17 In making your decision you may wish to have regard to the following:

- You have the right to attend the hearing and to make oral representations, or to have your case put to the Panel by a representative. This may be a friend or a professional. You must independently organise any legal representation and bear the cost of such professional representation at your own expense.
- Please indicate whether you will wish to call any witnesses and give brief details of the matters their evidence will concern. You should indicate the nature of the evidence to be given by your witnesses because it may be possible to agree a statement which they can submit to the hearing therefore avoiding the need for the witness to attend in person.

- You may elect not to attend the Review but to allow the hearing to be considered on the written statements submitted by yourself and any witnesses you call. The Headteacher and Governing Council will, of course, not be permitted to add new reasons to their case in your absence. They may however expand upon their written submissions and/or respond to questions presented by the Panel.

#### Questions 18 - 20

Please give details of any special educational needs your child may have.

Questions 21-23 These questions form the basis of your "written statement" detailing the grounds of your request for Review. Regulations governing independent reviews against permanent exclusion state that a request must be made in writing setting out the grounds on which it is made. Any IRP request form received without any grounds will not be considered to have been lodged properly and will be returned to you.

You can submit a brief summary of your case and additional information and evidence supporting your request for Review can be submitted at a later date before the hearing. If you choose not to attend the hearing, this will be the statement considered by the Review Panel. You may, of course, add additional sheets if there is not sufficient room on the form.

Where possible please attach with your form, copies of any letters and/or documents which you intend to use and which you intend to refer to at the hearing. This will enable the IRP to be well aware of these before the hearing. However, you must ensure that your request for Review is lodged by the date on the bottom of the form as any applications received after the relevant date cannot be accepted