



# Ysgol Bethania

## Suspension and Exclusion Policy

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Signed by:

Headteacher

Date:

Proprietor

Date:

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## Statement of intent

At Ysgol Bethania, we understand that positive relationships, consistent routines, trauma-informed practice and clear support for additional learning needs are essential for promoting a safe, inclusive and high-quality primary education.

Amongst other disciplinary sanctions, the school recognises that suspension and exclusion of pupils may be necessary where there has been a serious breach, or consistent breaches, of the school's Behaviour Policy. Suspending or excluding a pupil may also be required in instances where allowing the pupil to remain in school would be damaging to the education and welfare of themselves or others; in all cases, suspending or excluding pupils should only be used as a means of last resort.

The school has created this policy to define the responsibilities of the Headteacher, proprietor and relevant local authority when responding to fixed-term and permanent exclusions, ensuring that decisions are fair, lawful, proportionate and consistent with Welsh legislation, Welsh Government guidance and the Independent School Standards (Wales) Regulations 2024. The policy also recognises that Ysgol Bethania is a primary ALN/ALN setting and that exclusion must be used only as a last resort, after reasonable adjustments, additional learning provision and appropriate multi-agency support have been considered.

A “**suspension**” is defined as the temporary removal of a pupil from the school for behaviour management purposes. A pupil may be suspended for one or more fixed periods, up to a maximum of 45 school days in a single academic year. A suspension does not have to be for a continuous period.

An “**exclusion**” is defined as the permanent removal of a pupil from the school, 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 pupils or staff in the school.

## Legal framework

This policy has due regard to all relevant Welsh legislation and statutory requirements including, but not limited to, the following:

- Education Act 1996
- Education Act 2002
- Equality Act 2010
- Human Rights Act 1998 and the European Convention on Human Rights
- Children Act 1989
- Social Services and Well-being (Wales) Act 2014
- Additional Learning Needs and Education Tribunal (Wales) Act 2018
- The Education (Pupil Exclusions and Appeals) (Maintained Schools) (Wales) Regulations 2003, as amended
- The Independent School Standards (Wales) Regulations 2024
- United Nations Convention on the Rights of the Child (UNCRC)

This policy also has due regard to statutory and non-statutory guidance, including, but not limited to, the following:

- Welsh Government (2024) 'Exclusion from schools and pupil referral units'
- Welsh Government (2024) 'Independent schools registration and operational guidance'
- Welsh Government 'Additional Learning Needs Code for Wales'
- Welsh Government 'Keeping learners safe'
- Welsh Government 'Rights, respect, equality: statutory guidance for governing bodies of maintained schools'

This policy operates in conjunction with the following school policies:

- Behaviour Policy
- Anti-bullying Policy
- Pupil Code of Conduct
- Additional Learning Needs (ALN) / ALN Policy
- Social, Emotional and Mental Health (SEMH) Policy
- Child Protection and Safeguarding Policy
- Curriculum Policy
- Complaints Policy and Procedure

## Roles and responsibilities

The relevant local authority is responsible for:

- Having due regard to Welsh Government exclusions guidance when carrying out its functions in relation to excluded learners.

- Working with the school, parents and relevant agencies where a learner has an individual development plan (IDP), is looked after, has a social worker, or requires alternative education following exclusion.
- Ensuring that any education arranged following permanent exclusion is suitable to the learner's age, ability, aptitude and additional learning needs.
- Supporting review, appeal or reintegration arrangements where required under Welsh legislation and guidance.

The proprietor is responsible for:

- Ensuring the school complies with the Independent School Standards (Wales) Regulations 2024, including standards relating to pupils' welfare, health and safety, the quality of education, safeguarding, complaints and the provision of information.
- Ensuring this policy is implemented consistently and reviewed at least annually.
- Ensuring that decisions about exclusion are monitored for fairness, equality, proportionality and impact on pupils with ALN/ALN.
- Ensuring that the school's behaviour and exclusion procedures actively promote pupils' wellbeing, dignity and rights under the UNCRC.
- Ensuring that parents, carers, learners where appropriate, commissioning local authorities and relevant professionals receive clear information about any exclusion decision and any right to make representations or appeal.
- Maintaining oversight of exclusions, including patterns by age, need, disability, care status, ethnicity, sex and other relevant characteristics.
- Arranging for the representation meeting to take place via remote access where requested by parents or excluded pupils aged 18 and over.
- Adhering to its responsibilities to consider the reinstatement of pupils.
- Considering the interests and circumstances of the suspended or excluded pupil, including the circumstances in which they were suspended or excluded, and have due regard to the interests of others at the school.
- Using the civil standard of proof (based on the 'balance of probabilities', it is more than likely that the fact is true) when establishing the facts relating to a suspension or exclusion.
- Ensuring clear minutes are taken of the representation meeting.
- Noting the outcome of the representation meeting on the pupil's education record, along with copies of relevant papers for future reference.
- Notifying the pupil's parents, the Headteacher and the LA of its decision and the reasons for it, without delay.
- Where appropriate, informing parents of where to apply for an independent review panel.
- Informing parents of relevant sources of information.
- Ensuring a pupil's name is removed from the school admissions register, where appropriate.
- Reconvening within 10 school days to reconsider reinstatement of a pupil where directed to do so by the suspensions and exclusions review panel.
- Using data to evaluate the school's practices regarding intervention, suspension and exclusion.

Where a review, appeal or panel is required by Welsh legislation or contractual arrangements with a commissioning local authority, the relevant responsible body will ensure that:

- Parents, carers and the learner, where appropriate to age and understanding, are given a fair opportunity to make written and oral representations.
- Relevant papers are shared in good time and in an accessible format.
- Reasonable adjustments are made so that parents, carers and learners with communication, sensory, cognitive or other needs can participate effectively.
- Any decision is reached independently, fairly and in line with Welsh law, Welsh Government guidance and natural justice.
  - Make written representations to the panel.
  - Attend the hearing and make oral representations to the panel.
  - Be represented.
- Circulating copies of relevant papers at least five school days before the review to all parties.
- Giving all parties details of those attending and their role, once the position is clear.
- Attending the review and ensuring that minutes are produced in accordance with instructions from the panel within the timeframe of the policy.

The Headteacher is responsible for:

- Promoting positive behaviour through a relational, trauma-informed and inclusive approach suitable for primary learners with ALN/ALN.
- Ensuring exclusion is used only as a last resort, where there has been a serious breach or persistent breaches of the Behaviour Policy and where allowing the learner to remain in school would seriously harm the education or welfare of the learner or others.
- Applying the civil standard of proof when establishing the facts in relation to an exclusion.
- Considering the learner's age, developmental stage, communication profile, sensory needs, disability, ALN, IDP, risk assessment, behaviour support plan and any known trauma or mental health needs before deciding to exclude.
- Ensuring that reasonable adjustments and additional learning provision have been considered and, where appropriate, implemented before exclusion is used.
- Taking account of the Equality Act 2010, the Additional Learning Needs and Education Tribunal (Wales) Act 2018, the ALN Code for Wales and the UNCRC.
- Consulting the ALNCo, safeguarding lead, parents/carers, commissioning local authority and relevant professionals before making a permanent exclusion decision wherever practicable.
- Recording the evidence, rationale, alternatives considered, reasonable adjustments considered and arrangements for education during any exclusion.
- Notifying parents/carers, the proprietor and relevant local authority without delay of any exclusion decision.
- Ensuring that no informal, unofficial or unlawful exclusion is used, including ALNing a learner home to "cool off".

## Grounds for suspension or exclusion

The school will only exclude a learner where it is absolutely necessary, lawful, reasonable and proportionate, and where alternative strategies, reasonable adjustments and support under the school's Behaviour Policy and ALN/ALN arrangements have been considered.

The following examples of behaviour may warrant the decision to suspend or exclude a pupil:

- Physical assault against a pupil
- Physical assault against an adult
- Verbal abuse or threatening behaviour against a pupil
- Verbal abuse or threatening behaviour against an adult
- Use, or threat of use, of an offensive weapon or prohibited item
- Bullying
- Discriminatory abuse, e.g. racist, homophobic, biphobic, transphobic or ableist abuse

A fixed-term exclusion may be for one or more fixed periods, up to a maximum of 45 school days in a single academic year. Permanent exclusion will be considered only in the most serious circumstances and only after the Headteacher has considered whether the behaviour is linked to unmet ALN/ALN, disability, safeguarding, communication, sensory, medical or mental health needs.

## The Headteacher's power to suspend and exclude

Only the Headteacher has the power to suspend or exclude a pupil from the school, and is able to decide whether either a suspension or exclusion is appropriate. All suspensions and exclusions will only be issued on disciplinary grounds.

The Headteacher is able to suspend pupils where their behaviour is disruptive during lunchtime. All lunchtime suspensions will be counted as half of a school day. The Headteacher is also able to consider a pupil's disruptive behaviour outside of the school premises as grounds for suspension or exclusion, in accordance with the school's Behaviour Policy.

When ALNing a pupil home following any suspension or exclusion, the Headteacher will ensure that they exercise their duty of care at all times and will always inform the parents.

Any decision to exclude a learner will be lawful, proportionate and fair, having regard to Welsh legislation, Welsh Government guidance, the Independent School Standards (Wales) Regulations 2024 and the school's wider duties. The Headteacher will take account of duties under the Equality Act 2010, the ALN system in Wales and the UNCRC, and will not discriminate directly or indirectly against a learner because of disability, ALN or any protected characteristic.

The Headteacher will apply the civil standard of proof when responding to the facts relating to a suspension or exclusion, i.e. that 'on the balance of probabilities' it is more likely than not that the facts are true.

The Headteacher may cancel any suspension or exclusion that has already begun, or one that has not yet begun; however, this power will only be used if the suspension or exclusion has not already been reviewed by the governing board.

Where a suspension or exclusion is cancelled, the Headteacher will notify the pupil's parents, the governing board, the LA, and, where relevant, the virtual school head (VSH) and the pupil's social worker. The notification will also provide the reason for the cancellation. The Headteacher will offer the pupil's parents the opportunity to meet with the Headteacher to discuss the circumstances that led to the cancellation of the exclusion, and the pupil will be allowed back into school without delay.

When a suspension or exclusion is cancelled, the governing board's duty to consider reinstatement ceases, and there is no requirement to hold a meeting to consider reinstatement.

Any days spent out of school as a result of a suspension or exclusion prior to it being cancelled will count towards the maximum 45 school days that a pupil can be suspended or excluded in an academic year. A permanent exclusion will not be cancelled if the pupil has already been suspended or excluded for more than 45 school days in an academic year or if they will have been so by the time the cancellation takes effect.

The Headteacher will report the number of suspensions and exclusions that have been cancelled, alongside the circumstances around and reasons for cancellation, to the governing board once per term, to allow the governing board to have appropriate oversight.

The Headteacher will not issue any informal, unofficial or unlawful exclusions, including ALNing a learner home to "cool off", asking parents to collect a learner because their needs cannot be met that day, or using part-time attendance as a disciplinary measure. Any reduced timetable will be exceptional, time-limited, agreed with parents and relevant agencies, and used only as a supportive intervention rather than as an exclusion.

All suspensions and exclusions will be formally recorded on the school's pupil information system.

## Factors to consider when suspending or excluding a pupil

When considering whether to exclude a learner, the Headteacher will consider the following before reaching a decision:

- Whether the learner has been given an age-appropriate and communication-appropriate opportunity to share their views.
- Whether the behaviour may be linked to unmet ALN/ALN, disability, sensory processing, communication needs, anxiety, trauma, safeguarding concerns, bullying, bereavement, medical needs or mental health needs.
- Whether the learner's IDP, behaviour support plan, risk assessment, positive handling plan or one-page profile needs to be reviewed.

- Whether reasonable adjustments have been made and whether additional adjustments are required.
- Whether advice is needed from the ALNCo, educational psychologist, social worker, health professionals, commissioning local authority or other relevant services.
- Whether a restorative, therapeutic, safeguarding or reintegration response would be more appropriate.
- Whether exclusion would be in the learner's best interests and compatible with the rights and welfare of all learners.

The Headteacher will consider what extra support may be available for vulnerable pupil groups whose suspension and exclusion rates are higher, to reduce their risk of suspension or exclusion, including the following:

- Learners with ALN/ALN or an IDP
- Looked-after and previously looked-after children
- Learners with a social worker
- Learners eligible for free school meals
- Learners with SEMH needs, trauma histories, communication needs or sensory needs
- Learners who may be vulnerable because of disability, ethnicity, language, family circumstances or other protected or relevant characteristics

The Headteacher will be particularly cautious before excluding a looked-after child, a learner with a social worker, a learner with an IDP, or a learner whose behaviour may arise from disability or ALN. Where concerns arise, the Headteacher will ensure that relevant professionals are consulted and that a multi-agency review is considered before any permanent exclusion decision is made, unless immediate action is necessary to protect the safety and welfare of the learner or others.

Where ALN/ALN or SEMH needs are identified, the school will use a graduated, person-centred and trauma-informed approach. This may include reviewing the learner's IDP or support plan, adapting the environment, adjusting communication approaches, providing sensory regulation support, increasing adult support, using restorative approaches and seeking external advice. Exclusion will not be used because the school has failed to make reasonable adjustments or provide appropriate support.

Where a pupil with ALN or SEMH issues is excluded because of a ALN- or SEMH-related need that could not be met at the school, detailed records will be kept highlighting that these pupils are closely tracked and showing that the school has a close relationship with the pupil's next destination.

The Headteacher will work in conjunction with the parents of any pupil with additional needs to establish the most effective support mechanisms.

## Preventative measures

Before taking a final decision to exclude, the Headteacher will consider preventative measures appropriate to a primary ALN/ALN setting, including restorative meetings, sensory regulation plans, increased adult support, timetable adaptations, therapeutic input, review of the IDP or support plan, risk assessment review, parental meetings and multi-agency planning. Any off-site direction, alternative provision or placement change will only be used where lawful, suitable, safe and in the learner's best interests.

### Off-site direction

The governing board and the Headteacher will decide, in communication with the pupil and their parents, whether off-site direction is an appropriate solution to manage a pupil's behaviour and avoid suspension or exclusion. Where all parties agree to this course of action, the school will work with the pupil and their parents to discuss and agree a plan for the off-site direction, including a proposed maximum period of time that the pupil will be at the alternative provision and any alternative options that will be considered once the time limit has been reached, e.g. managed moves.

The governing board will notify parents, and the LA if the pupil has an EHC plan, in writing with information about the placement no later than two school days before the relevant day.

The school will keep any off-site placements under review by holding review meetings at intervals deemed appropriate by the governing board; the governing board will ensure, where possible, that review meetings are convened at a time suitable for the pupil's parents, and will invite parents in writing to each review meeting no later than six days before that date. Where parents request, in writing, that the governing board hold a review meeting, the governing board will arrange review meetings in response, as soon as is reasonably practicable, unless there has been a review meeting in the previous 10 weeks.

The governing board will decide at each review meeting whether the arrangement will continue and for what period of time; the meeting will also decide arrangements for further reviews. Reviews will be recorded in writing, including any decisions made regarding the placement.

### Managed moves

Where a change of placement is considered to be in a learner's best interests, the Headteacher and proprietor will discuss this with parents/carers, the commissioning local authority and any relevant professionals. Any transition to another setting will be planned, recorded and agreed wherever possible, and will not be used as a means of avoiding the proper exclusion process.

The school will ensure that detailed records are kept of any decision to initiate a managed move, including evidence that appropriate initial intervention has been carried out. The school

will participate in information sharing with the pupil's new school, including ALNing data on prior and current attainment, academic potential and any risk management strategies. The school will also cooperate with the pupil's new school to create an effective integration strategy.

Parents who have concerns that a managed move is being forced on them or who are unhappy with a managed move will be referred to the Complaints Policy and Procedure.

## Duty to inform parents

Following the Headteacher's decision to exclude a learner, the Headteacher will inform the parents/carers without delay, normally by telephone and in writing, of the period of the fixed-term exclusion or the fact that the exclusion is permanent, the reasons for the decision, and the arrangements for education, support and review.

The Headteacher will inform the parents in writing (or electronically if written permission has been received from the parents for notices to be sent this way) of the following:

- The reasons for the exclusion and whether it is fixed-term or permanent
- The start and end date of any fixed-term exclusion
- The arrangements for work, education, support and reintegration
- The parents'/carers' right to make representations and the process for doing so
- How the learner's views will be sought in a way that is appropriate to their age, development and communication needs
- Any right of review or appeal available under Welsh legislation, contractual arrangements or commissioning local authority procedures
- Relevant sources of impartial advice and support
- Who to contact at the school to discuss safeguarding, welfare, ALN/ALN or reintegration arrangements

Where the pupil is of compulsory school age, the Headteacher will inform the parents by the end of the afternoon session that for the first five days of the suspension or exclusion (or until the start date of any alternative provision or the end of the suspension, where this is earlier), parents are legally required to ensure that their child is not present in a public place during school hours without justification, and that parents may receive a penalty fine if they fail to do so.

Where the Headteacher has arranged alternative provision, they will also inform the parents of the following:

- The start and end date for any provision of full-time education
- The address at which the provision will take place
- Any information necessary for the pupil to identify the person they should report to on the starting date

Where the Headteacher is unable to provide information on alternative provision by the end of the afternoon session, they will provide the information in a subsequent written notice without further delay, and within 48 hours of the pupil beginning the provision. If the alternative

provision is due to begin before the sixth day of the suspension or exclusion, the Headteacher is able to give less than 48 hours of notice, with parental consent.

If the Headteacher has decided to suspend the pupil for a further fixed period following their original suspension, or to permanently exclude them, they will notify the parents without delay and issue a new suspension or exclusion notice to parents.

## Duty to inform the governing board and LA

The Headteacher will inform the proprietor and relevant local authority without delay of:

- Any permanent exclusion
- Any fixed-term exclusion which would bring the learner's total exclusions to more than five school days in a term
- Any exclusion which would result in the learner missing a public examination, statutory assessment or important transition activity
- Any exclusion of a looked-after child, learner with a social worker, or learner with an IDP where the relevant authority needs to be involved in planning support or alternative provision

For any suspensions and exclusions, other than those above, the Headteacher will notify the governing board once per term.

The Headteacher will inform the LA of all suspensions or exclusions, regardless of their length, without delay.

All notifications to the governing board and LA will include the reasons for suspension or exclusion and the duration of any suspension.

If a pupil who is suspended or excluded lives outside the LA in which the school is located, the Headteacher will notify the pupil's 'home authority'.

## Duty to inform social workers and the virtual school head (VSH)

When a learner has a social worker, is looked after, is previously looked after, has an IDP, or is placed by a local authority, the Headteacher will notify the relevant professional or authority without delay where exclusion is being considered or has been imposed. This will include the reasons for the exclusion, its duration and the arrangements for education, welfare and review.

Social workers and/or the VSH will also be informed when a meeting of the governing board is taking place, and will be invited to attend the meeting should they wish to do so.

Social workers and VSHs will be allowed to join a governing board meeting or independent review panel via the use of remote access, as long as the arranging authority is satisfied they will be able to participate effectively, they can hear and be heard throughout the meeting, and their remote participation will not prevent the meeting being fair and transparent.

## Arranging education for suspended and excluded pupils

For fixed-term exclusions, the school will take reasonable steps to set and mark appropriate work from the first day of exclusion. Where an exclusion is for more than five school days, the school will work with the proprietor, parents/carers and relevant local authority to ensure suitable education is arranged from the sixth school day, taking account of the learner's age, ability, aptitude, ALN/ALN, communication needs and wellbeing.

The governing board will not arrange full-time education for any pupil who is currently in their final year of compulsory education, and who does not have any further public examinations to sit.

The governing board is aware that it is beneficial to suspended and excluded pupils to begin their alternative education arrangements before the sixth day of suspension or exclusion; therefore, the governing board will always attempt to arrange alternative provision before the sixth day. Where it is not possible to arrange alternative provision during the first five days, the school will ensure that they take reasonable steps to set and mark work for the pupil.

If a pupil with ALN has been suspended or excluded, the governing board will ensure that:

- Any alternative education is suitable for the learner's age, ability, aptitude, communication profile and ALN.
- The learner's IDP or support plan is reviewed where appropriate.
- Parents/carers and relevant professionals are consulted.
- Safeguarding, transport, supervision, medical, sensory and personal care needs are considered.
- A reintegration plan is agreed before the learner returns, where this is appropriate.

## Considering suspensions and exclusions

The governing board will consider any representations made by parents regarding suspensions and exclusions.

Parents and, where requested, a friend or representative, the Headteacher, and a member of the LA will be invited to attend any consideration of suspensions and exclusions and will be able to make representations.

Any meeting to consider reinstatement of a pupil will be arranged at a date and time convenient for all parties, and in compliance with any statutory time limits. Parents, and excluded pupils if they are over 18, will also be able to request that the meeting is held via remote access.

Where it is appropriate to the pupil's age and level of understanding, the pupil will also attend any consideration meeting, and will be enabled to make a representation on their own behalf if they desire to do so.

The governing board will consider the reinstatement of a suspended or excluded pupil, where:

- The exclusion is permanent.

- The suspension is fixed-period, and would bring the pupil's total number of suspended school days to more than 15 in any given term.
- The suspension or exclusion would result in the pupil missing a public examination.

In the case of a suspension where the pupil's total number of suspended days is more than 5 but less than 16 school days (this includes suspensions that exceed 15 school days by less than a whole day, e.g. one that totals 15.5 days) within a term, if parents make representations, the governing board will consider suspensions within 50 school days of receiving the notice of suspension. In the absence of any representations from parents, the governing board will consider the reinstatement on their own.

Where a suspension will take a pupil's total number of school days out of school above five but less than 15 for the term, and parents have not requested a governing board meeting, the governing board will not be required to consider the pupil's reinstatement but it will have the power to do so if it deems it appropriate.

Where a suspension will not bring a pupil's total number of days of suspension or permanent exclusion to more than five days in a term, the governing board will consider all representations made by parents; however, the board cannot direct the reinstatement of the pupil and it is not required to arrange a meeting with parents.

Where suspension or exclusion would result in a pupil missing a public examination, the governing board will consider the suspension or exclusion before the test to decide whether the pupil should be reinstated in time to take the examination.

In light of the above, the governing board will also consider whether it would be appropriate to allow the suspended or excluded pupil to enter the premises to take the examination.

When considering the reinstatement of a pupil, the governing board will:

- Only discuss the suspension or exclusion with the parties present at the meeting.
- Ask for any written evidence prior to the meeting.
- Circulate any written evidence and information to all parties, at least five school days in advance of the meeting.
- Allow pupils and parents to be accompanied by a person of their choice to the meeting.
- Consider what reasonable adjustments need to be made to support the attendance and contribution of parties at the meeting.
- Identify the steps needed to enable and encourage the suspended or excluded pupil to attend the meeting and speak on their behalf, or how they may contribute personal views by other means if attendance is not possible.
- Consider the interests and circumstances of the pupil, including the grounds for suspension or exclusion.

## Reaching a decision

After considering suspensions and exclusions, the governing board will either:

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

If reinstatement would make no practical difference, e.g. if the pupil has already returned to school following a suspension or the parents make clear they do not want their child reinstated, the governing board will still consider whether the pupil should be officially reinstated, and whether the Headteacher's decision to suspend or exclude the pupil was fair, lawful and proportionate, based on the evidence presented.

The governing board will apply the civil standard of proof when responding to the acts relating to a suspension or exclusion, i.e. that on the 'balance of probabilities' it is more likely than not that the facts are true.

To reach a decision, the governing board will:

- Identify the steps they intend to take to ensure that all parties involved will have the opportunity to participate and present their views.
- Ensure that minutes are taken of the meeting as a record of the evidence that was considered.
- Ask all parties to withdraw from the meeting before concluding their decision.
- Consider whether the suspension or exclusion of the pupil was lawful, proportionate and fair, taking into account the Headteacher's legal duties and any evidence that was presented to the governing board in relation to the decision.
- Record the outcome of the decision on the pupil's educational records, along with copies, which will be kept for at least six months.
- Make a note of their findings, where they have considered a suspension or exclusion but cannot reinstate the pupil.

## Notification of considered suspensions and exclusions

The governing board will notify the parents of the suspended or excluded pupil, the Headteacher, and the LA of their decision following the consideration of a suspension or exclusion, in writing and without delay.

In the case of exclusion, where the governing board decides not to reinstate the pupil, they will notify the parents:

- That the exclusion is permanent.
- Of their right for it to be reviewed by an independent review panel.
- Of the date by which an application for review must be made.
- Of the name and address of whom the review application should be submitted to.
- That a request to hold the meeting via remote access can be made and how to do this.
- That any application should set out the grounds on which it is being made and that, where appropriate, this should include reference to how a pupil's ALN is considered relevant to the exclusion.
- That, regardless of whether a pupil has been identified as having ALN, the parents have a right to require the governing board to ensure a ALN expert attends the review.
- Of the role of the ALN expert that will attend the review, and that the parents will not be charged for this.
- That they are required to make it clear if they wish for a ALN expert to attend the review.

- That they may appoint someone at their own expense to make representations to the panel.

The governing board will also notify parents that, if they believe a suspension or exclusion has been issued as a result of discrimination, then they are required to make a claim under the Equality Act 2010 to the First-tier Tribunal (ALN), and that this should be within six months of when the discrimination allegedly took place.

After any conclusion, the governing board will notify the parents, and all other parties involved, of the decision that was made and the reasoning for this, in sufficient detail.

## Removing excluded pupils from the school register

The Headteacher will remove pupils from the school register if:

- 15 school days have passed since the parents were notified of the governing board's decision not to reinstate the pupil and no application for an independent panel review has been received.
- The parents have stated in writing that they will not be applying for an independent panel review following an exclusion.

If an application for an independent panel review has been made within 15 school days, the Headteacher will wait until the review has been determined, or abandoned, and until the governing board has completed any reconsideration that the panel recommended or directed it to carry out, before removing the pupil from the school register.

If a pupil's name is to be removed from the register, the Headteacher will make a return to the LA, which will include:

- All the particulars which were entered in the register.
- The address of any parent with whom the pupil normally resides.
- The grounds upon which the pupil's name is to be removed from the register.

Any return to the LA will be made as soon as the grounds for removal are met and no later than the date in which the pupil's name was removed.

If a pupil's name has been removed from the register and a discrimination claim is made, the pupil may be reinstated following a decision made by the First-tier Tribunal (ALN) or County Court.

Whilst a pupil's name remains on the admissions register, the appropriate code will be used to mark the pupil's attendance:

- Code B: Education off-site
- Code D: Dual registration
- Code E: Absent and not attending alternative provision

## Independent review panel

The LA will review the governing board's decision not to reinstate an excluded pupil if the parents submit their application for this within the required time frame.

The LA will constitute an independent review panel of three or five members that represent the following categories:

- A lay member to chair the panel. This individual will not have worked in any school in a paid capacity
- A current or former school governor who has served for at least 12 consecutive months in the last 5 years
- A Headteacher or individual who has been a Headteacher within the last 5 years

Parents are required to submit their applications within:

- 15 school days of the governing board's notification of their decision.
- 15 school days of the final determination of a discriminatory claim made under the Equality Act 2010.

Any application made outside of the above timeframe will not be reviewed. Parents are able to request an independent panel review even if they did not make a case to, or attend, the governing board's initial consideration of the exclusion.

Parents can request that independent review panels take place via remote access.

The LA will adhere to all statutory guidelines when conducting an independent panel review, as outlined in the DfE's statutory guidance.

## Appointing an ALN expert

If requested by parents in their application for an independent review panel, the LA will appoint a ALN expert to attend the panel and covers the associated costs of this appointment. Parents have a right to request the attendance of a ALN expert at a review, regardless of whether the school recognises that their child has ALN.

The LA will make arrangements to indemnify the ALN expert against any legal costs and expenses reasonably incurred as a result of any decisions or actions connected to the review and which are taken in good faith.

An individual will not serve as a ALN expert if they have, or at any time have had, any connection with the LA, school, parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their ability to act impartially; however, an individual is not taken to have such a connection solely because they are an employee of the LA.

The ALN expert will be a professional with first-hand experience of the assessment and support of ALN, as well as an understanding of the legal requirements on schools in relation to ALN. Examples of suitable individuals include educational psychologists, specialist ALN teachers, SENCOs and behaviour support teachers.

Recently retired individuals are not precluded from fulfilling this role; however, during interview, the LA will assess the knowledge of such individuals in order to ensure that they have a good understanding of current practice and the legal requirements on schools in relation to ALN.

Whilst individuals are not automatically taken to be partial simply because they are an employee of, or contracted by, the LA, they will not have had any previous involvement in the assessment or support of ALN for the excluded pupil, or siblings of the excluded pupil. The LA will request that prospective ALN experts declare any conflict of interest at the earliest opportunity.

The final decision on the appointment of a ALN expert is for the LA to make, but it will take reasonable steps to ensure that parents have confidence in the impartiality and capability of the ALN expert. Where possible, this will include offering parents a choice of ALN expert. In order to meet its duties within the statutory time frame, the LA will consider maintaining a list of individuals capable of performing the role of ALN expert in advance of a request.

The LA will determine the amount of any payment in relation to the appointment of the ALN expert, such as financial loss, travel and subsistence allowances.

## The role of the ALN expert

The ALN expert's role is analogous to an expert witness, providing (orally and/or written) impartial advice to the panel on how ALN might be relevant to the exclusion. The ALN expert will base their advice on the evidence provided to the panel. The ALN expert's role does not include making an assessment of the pupil's ALN.

The focus of the ALN expert's advice will be on whether the school's policies which relate to ALN, or the application of these policies in relation to the excluded pupil, were legal, reasonable and procedurally fair. If the ALN expert believes that this was not the case, they will, where possible, advise the panel on the possible contribution this could have made to the circumstances of the pupil's exclusion.

Where the school does not recognise that a pupil has ALN, the ALN expert will advise the panel on whether they believe the school acted in a legal, reasonable and procedurally fair way with respect to the identification of any ALN that the pupil may potentially have, and any contribution that this could have made to the circumstances of the pupil's exclusion.

The ALN expert will not criticise a school's policies or actions simply because they believe a different approach should have been followed or because another school might have taken a different approach.

## Appointing a clerk

The LA will decide whether to appoint a clerk to the independent review panel, or to make alternative arrangements to administer the panel.

Where a clerk is appointed, the LA will ensure that the clerk did not serve as clerk to the governing board when the decision was made not to reinstate the pupil.

## The role of the clerk

The clerk's role is to provide advice to the panel and parties to the review on procedure, law and statutory guidance on exclusions.

The clerk will:

- Identify, in advance of the meeting, whether the excluded pupil wishes to attend the panel hearing, taking reasonable steps to enable the pupil to feedback their views, irrespective of their attendance.
- Identify, in advance of the meeting, whether any alleged victims of the incident leading up to the exclusion wish to attend the panel hearing, taking reasonable steps to enable them to feedback their views, irrespective of their attendance.
- Ensure that the panel is able to hear from any witnesses to the incident leading to the exclusion, taking into account the fact that some of these people may be pupils at the school. Pupils under 18 will not be allowed to appear in person without parental consent.
- Inform the parents, Headteacher and governing board that they are entitled to make oral and written representations to the panel, attend the hearing, and be represented.
- Ensure that all parties are:
  - Provided with copies of relevant papers at least five school days before the review, notifying the panel if any requested documents have not been provided in case the panel wishes to adjourn until a later date.
  - Informed about who is attending the meeting, and what their roles are.
- Attend the review and ensure that minutes are produced in accordance with instructions from the independent review panel.

Where a clerk is not appointed, the LA will undertake the functions outlined above.

## The duties of the independent review panel

The role of the panel is to review the governing board's decision not to reinstate an excluded pupil. In reviewing the decision, the panel will consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and people working at the school. The panel will apply the civil standard of proof, rather than the criminal standard of 'beyond reasonable doubt'.

Following the review, the panel will do one of the following:

- Uphold the decision
- Recommend that the governing board reconsiders reinstatement
- Quash the decision and direct that the governing board reconsiders reinstatement

The panel's decision does not have to be unanimous and can be decided by a majority vote. It is binding on the pupil, parents, governing board, Headteacher and LA.

## Conducting governing board meetings or independent review panels via remote access

Parents, or excluded pupils if they are 18 or older, will be able to request that governing board meetings or independent review panels are held via remote access; however, parents and pupils will be made aware that this is not the default option.

Where a parent or pupil makes a request correctly in line with instructions set out in the Headteacher's or governing board's written notification, the governing board or LA will hold the meeting via the use of remote access.

Remote meetings and panels will be held in accordance with timelines for face-to-face meetings.

Where a request for a meeting to be held via remote access is not made, or the parent or pupil does not state a preference, the meeting or panel will be held in person unless it is not practicable to do so.

If there is a reason related to extraordinary events or unforeseen circumstances, e.g. an outbreak of an infectious illness, which means it is not reasonable for a meeting or panel to be held in person, it may be held via remote access.

Meetings will only be held via remote access if the governing board or LA is satisfied that that the meeting can be held fairly and transparently. If this cannot be done, the governing board or LA will consult with the parent to discuss how a face-to-face meeting can be arranged that will be convenient for them.

If there are technological or internet issues during a remote meeting which compromises the ability for participants to be seen or heard or prevents the meeting from being held fairly and transparently and it is not reasonably practicable to resolve, a face-to-face meeting will be arranged without delay.

When holding meetings or panels via remote access, the governing board or LA will:

- Comply with relevant equalities legislation.
- Enable access to support which the parent is entitled to, including the presence of a friend.
- Confirm with all participants that they have access to the technology that will allow them to participate in the meeting or panel.
- Ensure all the participants will be able to put across their point of view and/or fulfil their function.
- Ensure the remote meeting or panel can be held fairly and transparently.

Where a suspension or exclusion began before 1 September 2023 and a governing board meeting has not yet been held, the Headteacher will notify the parent, either on 1 September or as soon as possible afterwards, that they can ask the governing board to hold the meeting via the use of remote access. This also applies if an exclusion began before 1 September and the parent is entitled to make representations but has not yet done so. The Headteacher's

notification will explain how requests must be made and to whom and that requests must be made within three school days of the notification.

Where an exclusion began before 1 September 2023 and an independent review panel has not yet been held, the governing board must notify the parent, either on 1 September or as soon as possible that they can ask the independent review panel to hold the meeting via the use of remote access. This also applies if an exclusion began before 1 September and the parent is entitled to apply for an independent review panel but has not yet done so. The notification will explain how requests must be made and to whom and that requests must be made within three school days of the notification.

## Reconsidering reinstatement following a review

Where the independent review panel **instructs** the governing board to reconsider their decision not to reinstate a pupil, they will do so within 10 school days of being given notice of the review panel's decision.

[Where the independent review panel **recommends** that the governing board should reconsider their decision not to reinstate a pupil, they will do so within 10 school days of being given notice of the review panel's decision. The school is aware that if, following a recommendation to reconsider, the governing board does not offer to reinstate the pupil, it will not be subject to a financial adjustment. If, following reconsideration, the governing board offers to reinstate the pupil but the parents decline, no adjustment will be made to the school's budget.

Following reconsideration, the governing board will notify the parents, Headteacher and LA of their reconsidered decision and the reasons for this.

## Criminal investigations

The Headteacher will not postpone taking a decision to suspend or exclude a pupil due to a police investigation being underway, or any criminal proceedings that are in place.

Particular consideration will be given by the Headteacher when deciding to suspend or exclude a pupil where evidence is limited by a police investigation, to ensure that any decision made is fair and reasonable.

If the governing board is required to consider the Headteacher's decision in these circumstances, they will not postpone the meeting and will make a decision based on the evidence available.

## Training requirements

The LA will ensure that all independent review panel members and clerks have received training within the two years prior to the date of the review. Training will cover:

- The requirements of the legislation, regulations and statutory guidance governing suspensions and exclusions.

- The need for the panel to observe procedural fairness and the rules of natural justice.
- The role of the chair of a review panel.
- The role of the clerk to a review panel.
- The duties of Headteachers, governing boards and the panel under the Equality Act 2010.
- The effect of section 6 of the Human Rights Act 1998 and the need to act in a manner compatible with human rights protected by that Act.

Clerks will also have an up-to-date understanding on developments in case law which are relevant to suspension and exclusion.

## Using data

The Headteacher will ensure that all data regarding suspensions and exclusions is collected and provided to the governing board on a **termly** basis. The governing board will review this data regularly in order to:

- Consider the level of pupil moves and the characteristics of pupils who are moving on any permanent exclusions to ensure that this is only being used as a last resort.
- Gather information on pupils who are taken off the roll and those who are on the roll but attending education off-site.
- Consider the effectiveness and consistency in implementing the Behaviour Policy.
- Understand any variations in the rolling average of permanent exclusions to ensure they are only used when necessary.
- Understand the characteristics of suspended and excluded pupils and evaluate equality considerations.
- Gather information on where pupils are receiving repeat suspensions.
- Evaluate interventions in place to support pupils at risk of suspension and exclusion, including where there are patterns which may indicate that certain policies and support measures are or are not working.
- Analysing whether the placements of pupils directed off-site into alternative provision are reviewed at sufficient intervals to assure that the education is achieving its objectives.

## Monitoring and review

This policy will be reviewed annually by the Headteacher and proprietor, or sooner if Welsh legislation, Welsh Government guidance, the Independent School Standards (Wales) Regulations 2024, commissioning requirements or the needs of the school change. The next scheduled review date for this policy is 16/07/2027.

All members of staff will be required to familiarise themselves with this policy as part of their induction programme.