



HOLYWELL CHURCH OF ENGLAND ACADEMY

Exclusion Policy for Holywell School

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Overview

As a Church of England School, our Exclusion Policy is underpinned by our Behaviour for Learning Policy. Both policies are rooted in our distinctively Christian character and our core beliefs which are Gospel inspired and which support the school's Vision:

- to be **an outstanding Christian learning community**
- where **everyone is valued as a unique individual**
- and where **everyone feels safe.**
- We will aim **to be the best we can possibly be,**
- to **treat others as we wish to be treated**
- and **to make a positive difference** to our community and beyond.
- We strive to be **peaceful problem-solvers** with open minds and hearts,
- **living God's love**
- and **being kind.**

Aims

The specific aims of the Exclusion Policy are:

- To ensure that we have a shared understanding of what circumstances could or will result in exclusion
- To ensure that practices and processes for exclusion are clear, just and fair
- To ensure that practices and processes are consistently, insistently and persistently applied

Exclusion

Exclusion does not fit well with our spirit of forgiveness, second chances and restoring broken relationships. Where students are 'at risk' of exclusion, we will explore all possibilities before considering exclusion.

The decision to exclude

A decision to exclude a student for a fixed term or permanently will be taken only:

- a) in response to serious breaches of the school's behaviour policy – eg, serious disruption of learning, health and safety breach, clear intent to cause harm, behaviour which is beyond the authority of the school

- b) if allowing the student to remain in school would seriously harm the education or welfare of the student or others in the school.
 - c) where pre-emptive strategies put in place to support the student have not been successful
- A decision to exclude a student for a fixed period should be taken, on a balance of probabilities and only in response to breaches of the school's behaviour policy, including persistent disruptive behaviour. Individual, fixed term exclusions should be for the shortest time necessary – usually 1 day. We believe that exclusions of more than a day or two make it more difficult for the student to reintegrate into the school afterwards. Ofsted inspection evidence suggests that 1-3 days are often long enough to secure the benefits of exclusion without adverse educational consequences. Where it is clear that fixed period exclusions are not being effective in deterring poor behaviour, for example if they are being repeatedly imposed on a student in response to the same behaviour, head alternative strategies for addressing that behaviour will be considered – eg.
 - establishment of a Individual Behaviour Plan (IBP) to help the student better manage their behaviour. An IBP will normally involve a number of interventions. It is particularly appropriate for those students whose behaviour is deteriorating rapidly and will involve a fortnightly review meeting with parents;
 - curriculum alternatives;
 - temporary placement in an in-school Learning Support Unit as part of a planned positive programme for students;
 - temporary or part-time placement in a Student Referral Unit or with a voluntary / private sector alternative provider, where the student can receive educational provision intended to improve their behaviour;
 - consideration by the Special Educational Needs Co-ordinator (SENCO), with colleagues, of possible interventions within the school;
 - assessment of special educational needs, including possible placement in a special school;
 - allocation of a key worker such as a Learning Mentor, Education Welfare Officer or member of a Behaviour and Education Support Team;
 - referral to a specific support service, such as the Education Welfare Service, Children's Services or the Child and Adolescent Mental Health Service.
 - Medical referral
 - Managed move
 - Involvement of the LA Inclusion Officer.

Only the head teacher can exclude a student and this must be on disciplinary grounds. Other exclusion-related activities do not have to be undertaken by the head teacher personally, but may be delegated.

A student may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or permanently. A fixed-period exclusion does not have to be for a continuous period. A fixed-period exclusion can also be for parts of the school day. For example, if a student's behaviour at lunchtime is disruptive, they may be excluded from the school premises for the duration of the lunchtime period. The legal requirements relating to exclusion, such as the head teacher's duty to notify parents, apply in all cases. Lunchtime exclusions are counted as half a school day for statistical purposes and in determining whether a governing board meeting is triggered.

The law does not allow for extending a fixed-period exclusion or 'converting' a fixed-period exclusion into a permanent exclusion. In exceptional cases, usually where further evidence has come

to light, a further fixed-period exclusion 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.

The behaviour of a student outside school can be considered grounds for an exclusion.

Factors to consider before making a decision to exclude

Exclusion will not be imposed in the heat of the moment, unless there is an immediate threat to the safety of others in the school or the student concerned. Before deciding whether to exclude a student, either permanently or for a fixed period, the head teacher/teacher in charge will:

- a) ensure that a thorough investigation has been carried out;
- b) consider all the evidence available to support the allegations, taking account of the school's behaviour and equal opportunities policies, and, where applicable, the Race Relations Act 1976 as amended and the Disability Discrimination Act 1995 as amended; head teachers / teachers in charge and others involved in exclusion procedures have a positive duty to promote equality
- c) allow and encourage the student to give their version of events;
- d) check whether the incident may have been provoked, for example by bullying, or by racial or sexual harassment;
- e) if necessary, consult others, but not anyone who may later have a role in reviewing the head teacher's/teacher in charge's decision, for example a member of the governing body (or management committee in exclusions from PRUs); and
- f) keep a written record of the actions taken (and copies of written records made by other members of staff), including any interview with the student concerned. Witness statements must be dated and should be signed, wherever possible.

Standard of proof

The standard of proof to be applied is the balance of probabilities, i.e. if it is more probable than not that the student did what he or she is alleged to have done, the head teacher/teacher in charge will exclude the student. However, the more serious the allegation and thus the possible sanction, the more convincing the evidence substantiating the allegation needs to be. This is not the same as requiring the criminal standard of 'beyond reasonable doubt' to be applied. But it does mean that when investigating more serious allegations, in determining whether it is more probable than not that the student has behaved as alleged, head teachers/teachers in charge will need to gather and take account of a wider range of evidence. In some cases this may extend to evidence of the student's past behaviour, if relevant to the seriousness of the present allegation.

Where a police investigation leading to possible criminal proceedings has been initiated, the evidence available may be very limited. However, it may still be possible for the head teacher/teacher in charge to make a judgment on the balance of probabilities on whether to exclude the student.

When exclusion is not appropriate

Exclusion should not be used for:

- a) minor incidents such as failure to do homework or to bring dinner money;
- b) poor academic performance;
- c) lateness or truancy;
- d) pregnancy;
- e) breaches of school uniform rules or rules on appearance (for example, relating to jewellery, body-piercing, hairstyles, etc.), except where these are persistent and in open defiance of such rules. (Students may be sent home, their parents first having been contacted on recorded authorised absence to change clothes without being excluded; this should be for no longer than is necessary, otherwise it may amount to an unofficial exclusion);
- f) punishing students for the behaviour of their parents, for example where parents refuse, or are unable, to attend a meeting (guidance on working with parents is contained in the Legal Toolkit for Schools (see related documents section)) and

g) protecting victims of bullying by sending them home.

The decision to permanently exclude

A decision to exclude a child **permanently** is a serious one and should only be taken where the basic facts have been clearly established on the balance of probabilities. It will usually be the final step in a process for dealing with disciplinary offences following a wide range of other strategies which have been tried without success. It is an acknowledgement by the school that it has exhausted all available strategies for dealing with the child and will normally be used as a last resort.

There are, however, exceptional circumstances where, in the head teacher's judgment, it is appropriate to permanently exclude a child for a first or 'one off' offence. These include:

- a) serious actual or threatened violence against another student or a member of staff;
- b) sexual abuse or assault;
- c) supplying and/or using an illegal drug on the school site;
- d) carrying an offensive weapon
- e) or any act which seriously puts at risk the health and safety of anyone in school

NB. School staff can **search** for the following without consent:

- Knives and weapons
- Alcohol
- Illegal drugs
- Stolen items
- Tobacco and cigarette papers
- Fireworks
- Pornographic images.

Staff can also search for any item that is likely to be used to commit an offence, damage or harm, or any item that has been banned by school rules. **If the student agrees, school staff can search for any item.**

Staff can **confiscate** any item, however found, that they deem harmful or detrimental to school discipline. They can also seize any prohibited item found as a result of a search.

The headteacher, or a member of school staff authorised by the headteacher, can conduct a search.

Search guidelines:

- Authorised staff conducting a search must be the same sex as the student being searched.
- Authorised staff must have a witness present (staff member) and, if possible, they should also be the same sex.
- Authorised staff can carry out a search of a student of the opposite sex to you and without a witness present, but only where you reasonably believe that there is a risk that serious harm will be caused.
- A search can be conducted if you reasonably expect that a student is in possession of a prohibited item.

We will inform parents and the police where a criminal offence may have taken place. We will consider whether or not to inform other agencies such as Youth Offending Teams or social workers.

In line with DfE guidance, where the head teacher / teacher in charge has permanently excluded a student for:

- a) one of the above offences; or
- b) persistent and defiant misbehaviour including [bullying](#) or repeated possession and/or use of an illegal [drug](#) on school premises (see further guidance on bullying at

www.teachernet.gov.uk/wholeschool/behaviour/tacklingbullying/ and drug-related incidents) and where the basic facts of the case have been clearly established on the balance of probabilities

the Secretary of State would not normally expect the governing body/the management committee of a PRU or an Independent Appeal Panel to reinstate the student. The school will keep the Governing Body and parents informed of any permanent exclusions.

Student's opportunity to participate in exclusion procedures

The student's participation in decisions related to their exclusion is not set out in primary legislation or regulations. Nevertheless, at Holywell, we invite and encourage the student to state their case at all stages of the exclusion process, where appropriate, taking account of their age and understanding.

Drug-related exclusions

In line with our drug policy, illegal and other unauthorised drugs have no place within our school. Where the misuse of authorised drugs is concerned, the head teacher/teachers in charge will conduct a careful investigation to judge the nature and seriousness of each incident before deciding what action to take. Factors to consider in determining an appropriate response to a drug-related incident are set out in the Department's guidance *Drugs: Guidance for schools* at www.teachernet.gov.uk/wholeschool/behaviour/drugs/.

Unofficial exclusions

If the head teacher / teacher in charge is satisfied that, on the balance of probabilities, a student has committed a disciplinary offence and needs to be removed from the school site for that reason, formal exclusion is the only legal method of removal. **Informal or unofficial exclusions are illegal** regardless of whether they are done with the agreement of parents or carers. 'Cooling off' periods are therefore not possible and any instance where a student is sent home for disciplinary reasons for part of a school day, must be formally recorded as an exclusion.

In every instance where a student is sent home for disciplinary reasons, the head teacher/teacher in charge must formally record and specify the length of the exclusion (for reporting purposes this should be recorded as a half day, whole day or lunchtime). The head teacher must ensure that:

- they are meeting their legal duty of care towards students, and that parents are formally notified of the exclusion;
- child protection issues are taken into account e.g. bearing in mind the child's age and vulnerability, that a parent/carer is at home and the child is not placed at risk by, for example, being left to wander the streets; and
- that work is sent home or alternative provision is arranged.

Removal of students from school in exceptional circumstances

There may be exceptional circumstances in which the head teacher/teacher in charge needs to remove students from the school site when exclusion would be inappropriate. An example is where a student is accused of committing a serious criminal offence which took place outside the head teacher's/teacher in charge's jurisdiction or where there may be insufficient evidence to warrant exclusion.

The head teacher/teacher in charge can authorise leave of absence for a fixed period, with the parents' agreement, or, exercising powers delegated by the governing body (or management committee for PRUs) under section 29(3) of the Education Act 2002, can arrange for the student to be educated elsewhere (without parental approval, although the parents should be notified). However, such education elsewhere must be arranged for the purposes of receiving any instruction or training included in the secular curriculum for the school and should not be continued for longer than is absolutely necessary. Whether the student has been granted leave of absence or is being educated elsewhere, the school must ensure that the student's full-time education continues while

off site. Any such arrangements do not amount to an exclusion from school on disciplinary grounds and should be kept under periodic review involving the parents.

Where there is sufficient evidence to enable a head teacher / teacher in charge to consider exercise of the power to exclude, it is expected that he/she considers exercising that power, rather than authorising leave of absence. It is important that, in the exceptional circumstances where authorised leave of absence is used, the head teacher / teacher in charge's actions and arrangements are documented to remove any possibility of this being construed as an illegal exclusion. If exclusion some time later remains a possibility, the head teacher / teacher in charge should make the parents aware of this at the outset. The more time that passes the more likely it is that the exclusion will be regarded as an improper exercise of the power. The head teacher will **not** direct students off-site for educational provision / training to improve their behaviour.

Removal of students on medical grounds

Head teachers/teachers in charge may send a student home, after consultation with that student's parents and a health professional (for example, a school nurse) as appropriate, where because of a diagnosed illness such as a notifiable disease he or she poses an immediate and serious risk to the health and safety of other students and staff. This is not an exclusion, but it is an authorised absence and should be recorded as such in the attendance register. It should be for the shortest possible time. If difficulties persist, the head teacher should seek medical advice. Health and safety considerations, including a risk assessment, can contribute to a school's case for exclusion, but cannot in themselves be grounds for exclusion, which can only lawfully be for disciplinary reasons. Similarly, students cannot be sent home on health and safety grounds for their own protection because they are being bullied. It is not appropriate to send home children with SEN, with conditions such as ADHD and autism, purely for that reason and schools should arrange a statutory annual or interim/emergency review if they feel they are no longer able to meet a child's needs. The child should not be sent home in anticipation of such a review.

Length of fixed-term exclusions

Regulations allow head teachers/teachers in charge to exclude a student for one or more fixed periods which, when aggregated, do not exceed a total of 45 school days in any one school year. The limit of 45 school days applies to the student and not to the institution. Therefore, any days of fixed period exclusion served by the student in any school or PRU in the same school year will count towards the total. It is important therefore that, when a student transfers to a new school during the academic year, records of the fixed period exclusions a student has received and served so far during the current academic year are also transferred promptly to the new school. Exclusions may not be given for an unspecified period, for example until a meeting can be arranged. Such a practice amounts to an indefinite exclusion for which no legal authority exists. A fixed period exclusion does not have to be for a continuous period: for example, a student may be normally attending school three days a week and a local further education college for the other two; so a five-day exclusion from the school could be for three days in one week and two days in the next week.

Lunchtime exclusion

Students whose behaviour at lunchtime is disruptive may be excluded from the school premises for the duration of the lunchtime period. Lunchtime exclusions are counted as one half of a school day for statistical purposes and to trigger governor / management committee meetings so that parents can make representations. Lunchtime exclusions will not be counted towards the school's duty to provide full-time education from day six of a fixed period exclusion. Therefore lunchtime exclusions are not affected by the new regulations on providing students with education from the sixth day of their exclusion. Taking into account the child's age and vulnerability, the head teacher/teacher in charge should ensure that a parent/carer has been contacted and is available, if appropriate, to arrange collection and supervision of the student during the lunchtime exclusion. A lunchtime exclusion for an indefinite period, like any other indefinite exclusion, would not be lawful. The

Secretary of State does not expect lunchtime exclusion to be used for a prolonged period, e.g. for longer than a week. In the long run another strategy for dealing with the problem should be worked out. Arrangements should be made for students who are entitled to free school meals to receive their entitlement which may mean, for example, providing a packed lunch.

Procedures following a fixed-term exclusion

Whenever the head teacher excludes a student parents will, without delay, be notified of the period of the exclusion and the reason(s) for it. The following information will also be provided in writing:

- the reason(s) for the exclusion;
- the period of a fixed-period exclusion;
- parents' right to make representations about the exclusion to the governing board (in line with the requirements set out in paragraphs 52 to 60) and how the student may be involved in this;
- how any representations should be made; and
- where there is a legal requirement for the governing board to consider the exclusion, that parents have a right to attend a meeting, to be represented at that meeting (at their own expense) and to bring a friend.

Written notification of the information mentioned in the above paragraph can be provided by delivering it directly to the parents, leaving it at their usual or last known home address, or posting it to that address. Notices can be given electronically if the parents have given written agreement for this kind of notice to be sent in this way

Where an excluded student is of compulsory school age the head teacher must also notify the student's parents of the days on which they must ensure that the student is not present in a public place at any time during school hours. These days would be the first five school days of an exclusion (or until the start date of any alternative provision or the end of the exclusion where this is earlier). Any parent who fails to comply with this duty without reasonable justification commits an offence and may be given a fixed penalty notice or be prosecuted. The head teacher must notify the parents of the days on which their duty applies without delay and, at the latest, by the end of the first lesson of the afternoon.

As a school, we are obliged to provide education during a fixed period exclusion. Parents are not responsible for making educational provision for their excluded child, but are expected to cooperate with schools in this regard. Where a student is given a fixed period exclusion of a duration of six school days or longer, the school has a duty to arrange suitable full-time educational provision from and including the sixth school day of the exclusion: this does not apply to students of non compulsory school age.

During this period the school will set work for the student to complete and arrange for it to be marked. We will also explain how the time might be used to address the student's problems; and what support will best help with the student's reintegration into the school at the end of the exclusion. This will include arrangements for a reintegration interview with a parent of the student.

Reintegration interview

The head teacher will arrange a reintegration interview with parents during or following the expiry of any fixed period exclusion. The student should normally attend all or part of the interview. The interview should be conducted by the head teacher/teacher in charge or a senior member of staff. In some circumstances it may be helpful for another person to be present such as the designated teacher or governor for Looked After Children or children with SEN.

The purpose of the reintegration interview is to assist the reintegration of the student and promote the improvement of his or her behaviour. It provides an opportunity to:

- a. emphasise the importance of parents working with the school to take joint responsibility for their child's behaviour;
- b. discuss how behaviour problems can be addressed;
- c. explore wider issues and any circumstances that may be affecting the child's behaviour;
- d. reach agreement on how the child's education should continue, how best they can be reintegrated and what measures could be put in place to prevent further misbehaviour; and
- e. create a useful forum to consider with parents the possibility of a parenting contract.

The interview must be held during the period beginning with the first school day to which the exclusion relates and ending with the fifteenth school day following the day on which the student returns to school. The head teacher/teacher in charge must try to arrange the interview for a date and time that is convenient to the parent. If possible the interview should be held on the day the student returns to school. The interview date suggested by the head teacher/teacher in charge should be a school day, but the interview can be held on a non-school day if the head teacher/teacher in charge and parent agree. At least one of the child's parents is expected to attend the meeting. A parent's failure to attend will be one factor taken into account by a magistrates' court when deciding whether to impose a parenting order, if at any future date a parenting order has been applied for by the school or local authority. Schools must keep records of the failure to attend a reintegration interview, and of any explanation given by the parent for failure to attend, as the court may need to see them. However, a fixed period exclusion must not be extended if such an interview cannot be arranged in time or the parents do not attend. The interview must be conducted on school premises. The notice relating to a reintegration interview can be combined with the notice informing the parent of the exclusion or relating to the alternative educational provision that the student must attend whilst excluded (see the Education (Reintegration Interview) (England) Regulations 2007). The notice must be given no later than six school days before the date of the reintegration interview.

Parental co-operation

If a parent does not comply with an exclusion, for example by sending the excluded child to school, or by refusing to collect, or arrange collection of, him or her, including at lunchtime, as a school, we will have due regard for the student's safety in deciding what action to take. An exclusion should not be enforced if doing so may put the safety of the student at risk. If efforts to resolve the issue with the parents are unsuccessful the school will consider whether to contact the Education Welfare Service and seek the advice of the local authority. In some circumstances, police or community support officers could become involved. Where there is a persistent lack of parental co-operation and this is affecting the child's behaviour, the school or local authority may consider applying for a parenting order.

Procedures for review and appeal

The head teacher/teacher in charge must notify the governing body of any exclusion. The governing body/management committee must decide whether or not to reinstate the student, if appropriate, or whether the head teacher's/teacher in charge's decision to exclude the student was justified/appropriate. The governing body or management committee (for PRUs) can delegate the function of reviewing exclusions to a committee consisting of at least three governors/members, which may be called the Discipline Committee.

Procedures following permanent exclusion

In the case of a permanent exclusion the student remains on the roll of our until any appeal is determined; until the time limit for the parents to lodge an appeal has expired without an appeal being brought; or the parent has informed the LA in writing that no appeal is to be brought. During the first five school days of a permanent exclusion the school will send work home for the student to complete. During these initial five school days of exclusion parents must ensure that their child is not present in a public place during school hours without reasonable justification.

During the first five days of a permanent exclusion the LA should arrange to assess the student's needs and how to meet them including any special educational needs the student may have. This should involve undertaking a Common Assessment Framework (CAF) process where one has not already been carried out. The LA should also arrange a meeting with the parents to discuss options within the first week of the exclusion, and where appropriate involve them in the CAF process. From the sixth school day of a permanent exclusion, the LA is statutorily responsible for ensuring that suitable full-time education is provided to students of compulsory school age. This will be the student's home LA in cases where the school is maintained by a different LA. Local authorities are no longer expected to provide full-time education from the first day for every student permanently excluded from a school that was in the Behaviour Improvement Programme. However, because they continue to benefit from additional resources they are strongly encouraged to make provision for vulnerable students as quickly as possible and must make provision for every student no later than the sixth school day. Such provision does not have to be made for students in the final year of compulsory education who have already taken (or missed) their public examinations. For a student with a statement of special educational needs, suitable full-time provision must be appropriate to their special educational needs as set out on the statement.

If the school or LA considers that parenting is a factor in the behaviour of the student who has been excluded, they should consider whether it may be appropriate to offer a parenting contract or apply to the magistrates' court for a parenting order. Schools and LAs can also do this before the student's behaviour deteriorates to the point where exclusion is the only appropriate response. In accordance with the law on admissions, a school may not require a parent to sign a parenting contract as a condition of their child being admitted following permanent exclusion.

The head teacher's duty to inform the governing board and the local authority about an exclusion

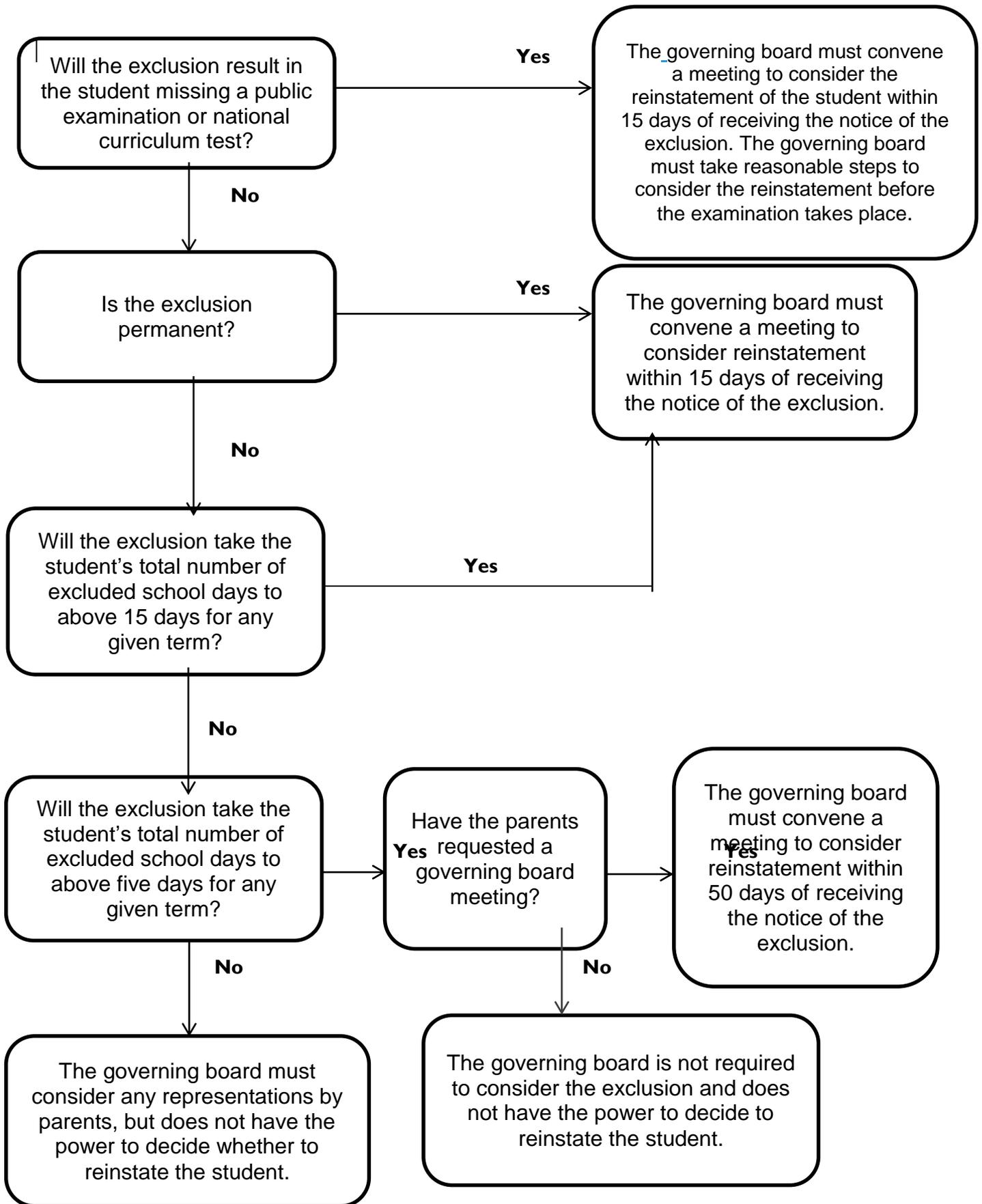
The head teacher must, without delay, notify the governing board and the local authority of:

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

The head teacher must also notify the local authority and governing board once per term of any other exclusions not already notified. Notifications must include the reason(s) for the exclusion and the duration of any fixed-period exclusion.

In addition, within 14 days of a request, a governing board must provide to the Secretary of State and (in the case of maintained schools and PRUs) the local authority, information about any exclusions within the last 12 months. For a permanent exclusion, if the student lives outside the local authority area in which the school is located, the head teacher must also notify the student's 'home authority' of the exclusion and the reason(s) for it without delay.

FURTHER DETAILS OF THE PROCESS FOR FOLLOWING UP AN EXCLUSION ARE IN THE DfE GUIDANCE DOCUMENT: DfE (2017) 'Exclusion from maintained schools, academies and student referral units in England'. This diagram summarises the process:



Review

This policy will be reviewed annually by SLT and the Ethos Committee of the Board of Governors. The governing body may, however, review the policy earlier than this if they receive recommendations on how the policy may be improved.

Cross reference this policy with the following policies:

- 1) **Equality, Access and Community Cohesion**
- 2) **Complaints**
- 3) **Behaviour for Learning**
- 4) **Anti-Bullying**
- 5) **Marking and Feedback Policy**
- 6) **Curriculum**

This policy has due regard to the related statutory legislation, including, but not limited to, the following:

- The Education Act 2002 (as amended by The Education Act 2011)
- The School Discipline (Student Exclusions and Reviews) (England) Regulations 2012
- The Education and Inspections Act 2006
- The Education Act 1996
- The Education (Provision of Full-Time Education for Excluded Students) (England) Regulations 2007 (as amended 2014)
- The European Convention on Human Rights (ECHR)
- The Equality Act 2010

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

- DfE (2017) 'Exclusion from maintained schools, academies and student referral units in England'
- DfE (2016) 'Behaviour and discipline in schools'
- DfE (2015) 'Special educational needs and disability code of practice: 0 to 25 years'