Appendix 6

**Seriously Inappropriate behaviour – Fixed Term Suspension/Permanent Exclusion**

If deemed seriously inappropriate behaviour, the child is referred directly to Head Teacher, Deputy Head, Assistant Head teacher.

These behaviours are as follows:

* Physical assault against an adult
* Physical assault against a pupil
* Verbal abuse or threatening behaviour against a pupil
* Verbal or threatening behaviour against an adult
* Use, or threat of use, of an offensive weapon or prohibited item that has been prohibited by the schools behaviour policy
* Bullying
* Racist abuse
* Abuse against sexual orientation or gender reassignment
* Abuse related to disability
* Behaviour which is life threatening
* Sexual misconduct
* Persistent disruptive behaviour i.e repeated and deliberately refusing to cooperate and behaving in an unreasonable way
* Drug and/or alcohol related incidents
* Deliberate damage to school property and/or belonging of other persons
* Theft
* Malicious allegations

In these instances each case will be judged individually and may result in the following:

1. Internal suspension – this involves being removed from a class for an appropriate amount of time depending on the misdemeanour
2. External suspension - fixed term or lunch time
3. Permanent exclusion – the pupil is no longer allowed to attend the school (unless the pupil is reinstated)

If either of the above take place, the parent will be informed via letter.

*Please note: “Pupil that are found to have made malicious allegations are likely to have breached school behaviour policies. The school should therefore consider whether to apply an appropriate sanction which could include temporary or permanent exclusion (as well as referral to the police if there are grounds for believing a criminal offence may have been committed)”*

*Department of Education*

**Suspensions and Permanent Exclusions – written in conjunction with** DfE ‘Suspension and permanent exclusion from maintained schools, academies and pupil referral units England including pupil movement’ - July 2022. Please read in line with the below information.

**The decision to suspend/exclude**

Only the Headteacher, or acting Headteacher, can suspend a pupil from school. A permanent exclusion will be taken as a last resort.

A decision to exclude a pupil will be taken only:

* In response to serious or persistent breaches of the schools behaviour policy, AND
* where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others such as staff or pupils in the school.

Before deciding whether to suspend a pupil for a fixed period or to permanently exclude, the headteacher will:

* Consider all the relevant facts and evidence, including whether incident(s) leading to the suspension/exclusion were provoked.
* Allow the pupil to give their version of the events
* Consider if the pupil has special educational needs (SEN) or any other need that should be taken into consideration.
* Decide whether early intervention to address underlying causes of behaviour have been investigated. This may include assessments of provision to support the child, multi-agency assessments and other environmental factors.
* Apply the civil standard of proof when establishing facts. This means that a decision will be made ‘on the balance of probabilities’ (it is more likely than not that a fact is true) rather than the criminal standard of ‘beyond reasonable doubt’.

A pupil may be suspended for one or more fixed periods (up to 45 days maximum within an academic year). A fixed period does not have to be a continuous period. A fixed period suspension can also be parts of the school day e.g. lunchtimes (these will be counted as half a school day for statistical purposes). If a child is receiving multiple suspensions or near the 45 days suspension limit, then the head teacher should consider whether suspension is providing an effective sanction.

The LA must be notified regardless of the length of any suspension.

A pupil can transfer to another school as part of a ‘managed move’. This occurs with the consent of all parties involved, including parents and admission authority of the school.

The law does not allow for extending a fixed term period or ’converting’ a fixed term into a permanent suspension. However, in some cases, where further evidence has come to light, a further fixed term 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 term. In this case a further letter shall be issued detailing the process and evidence pertaining to the incident(s).

Behaviour of a pupil outside school can be considered grounds for suspension.

The head teacher may withdraw an exclusion that has not been reviewed by the board of governors disciplinary committee. If this occurs, the Headteacher will notify all parties – parents, governing body and LA, as well as any social worker or VSH.

For suspensions, a school day is defined as any day on which there is a school session, therefore this does not include INSET or staff training days.

**Roles and responsibilities -**

**Head teacher**

Informing parents will be done immediately in writing every time a suspension is given (or verbally if this is not possible for the immediate suspension). This can be delivered directly by hand or emailed, a copy will also be posted to the address stored for this child, and sent to both parents if residing at different addresses. Letters can also be sent home with the suspended child if other avenues are not successful. The letter will include:

* The reason(s) for the suspension
* The length (fixed term) or whether permanent exclusion
* Give parents relevant sources and free impartial information about suspensions.
* Information about the parents’ right to make representations about the suspension of the governing body and how the pupil may be involved in this
* Where there is a legal requirement for the governing body to meet to consider the reinstatement of a pupil, and that parents have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend.

The head teacher will also notify the parents, on the day their child is suspended, that they are legally required to ensure their child is not present in a public place during school hours without good reason. This is for the first 5 days of a suspension or until the start date of any alternative provision. A fixed term penalty notice or prosecution may be given if they fail to do so. Home visits or phone calls may be made to check that children are safeguarded whilst excluded.

If alternative provision is being arranged, the following information will be included when notifying parents of an exclusion:

* Start date for any provision of full-time education that has been arranged
* The start and finish times of any such provision, including the times for morning and afternoon sessions, if relevant.
* The address at which the provision will take place
* Any information required by the pupil to identify the person they should report to on the first day

Where information for the alternative provision cannot be reasonably ascertained on the same day it may be provided in subsequent notice no later than 48 hours before the provision starting. The only exception to this is where alternative provision is to be provided before the sixth day of the suspension, therefore it can be less than the 48 hour’s notice time.

The headteacher will draw attention to relevant sources of free and impartial information:

* Coram’s Child Law Advice service can be accessed through their website https://childlawadvice.org.uk/information-pages/school-exclusion/ or contacted on 0300 330 5485 from Monday to Friday, 8am – 6pm.
* ACE education run a limited service and can be reached on 0300 0115 142 on Monday to Wednesday from 10am to 1pm during term time. Information can be found on the website: http://www.ace-ed.org.uk/.
* Independent Provider of Special Education Advice (known as IPSEA – www.ipsea.org.uk) is a registered charity. It offers free and independent information, advice and support to help get the right education for children and young people with all kinds of special educational needs (SEN) and disabilities.
* SEN Information Advice & Support Services Network (formerly known as the local parent partnership)

The headteacher may cancel an exclusion that has not been reviewed by the governing body disciplinary committee, withdrawing or rescinding a suspension or permanent exclusion. If this occurs, parents, the governing body and LA should be made aware. If relevant the social worker and/or VSH.

**Informing the governing board disciplinary committee and local Trust**

The head teacher will immediately notify the governing body and Harlow Educational Trust of:

* A permanent exclusion, including when a fixed term suspension is made permanent
* Suspensions which would result in the pupil being suspended for more than 5 school days (or more than 10 lunchtimes) in a term.
* Suspensions which would result in the pupil missing a public examination.

**Informing the LA**

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

For a permanent expulsion, if the pupil lives outside the LA in which the school is located, the head teacher will also immediately inform the pupils ‘home authority’ of the suspension and the reason(s) for it without delay.

For all other suspensions, the head teacher will notify the governing body and HET once a term.

**Social Care/Looked after**

If the pupil has a social worker or is looked after, the headteacher will notify the social worker and/or VSH without delay.

**The Governing body Disciplinary Committee (GBDC)**

For a fixed term suspension of more than 5 school days, the GBDC must arrange suitable full time education for any pupil of compulsory school age. This provision must begin no later than the 6th day of the suspension. If the suspensions are consecutive fixed term suspensions these will be regarded as a cumulative period of suspension for the purposes of this duty. Therefore on the 6th day of a consecutive suspension the child must receive alternative education. It is however beneficial for all excluded pupils to access education from the first day of exclusion and in the case of a LAC or child who has a social worker, the school and LA will work together to arrange provision from day one of the suspension.

For permanent exclusion, the LA must arrange suitable full time education beginning no later than the 6th day of exclusion. The LA in this case being the ‘home authority’.

Where it is not possible, or appropriate, to arrange provision during the first five school days of a suspension or permanent exclusion, the school shall take reasonable steps to set work for the pupil. Oak Academy resources may be used in this instance.

The GBDC has a duty to consider the reinstatement of the pupil. If this is considered then it needs to be done so within 15 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 pupils total number of school days of suspension to more than 15 in a term
* It would result in a pupil missing a pupil examination

If requested to do so by parents the GBDC will consider the reinstatement of a pupil within 50 school days of receiving notice of the suspension if the pupil would be excluded from school for more than 5 school days, but less than 15 (in a single term). In the absence of any representations from the parents, the GBDC is not required to meet and cannot direct the reinstatement of the pupil.

The GBDC must make reasonable endeavours to arrange the meeting for a date and time that is convenient to all parties and in line with statutory time limits. However, its decision will not be invalid simply on the grounds that it was not made within these time limits.

When considering the reinstatement of an excluded pupil they should:

* Not discuss the exclusion with any party outside the meeting
* Ask for written evidence in advance of the meeting including witness statements and other relevant information including SEND information and school records
* Where possible, circulate any written evidence and information to all parties at least 5 school days in advance of the meeting. This should include a list of who will be present
* Allow parents and the pupil to be accompanied by a friend or a representative. If a member is under the age of 18 then parental consent and invite to parents to accompany their child.
* Ask the child’s social worker to attend and if LAC, the VSH to attend
* Comply with their duty to make reasonable adjustments in order for parties to attend, and
* Identify the steps they will take to enable and encourage the excluded pupil to attend the meeting and speak on their own behalf, or how they may feed their views if they cannot attend (taking into account the pupils age and understanding).

In the case of a fixed term suspension which does not bring the pupils total number of days of suspension to more than 5 in a term, the GBDC must consider any representations made by parents, but it cannot direct reinstatement and is not required to arrange a meeting with parents.

Where suspension would result in a pupil missing a public examination the GBDC will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the GBDC will consider the suspension and decide whether or not to reinstate the pupil.

Where reinstatement would make no practical difference e.g. pupil already returned or parents declined reinstatement, the GBDC must still consider whether the pupil should be officially reinstated. If it decides against reinstatement of a pupil who has had a permanent expulsion the parents can request an independent review.

The GBDC can either:

* Decline to reinstate the pupil, or
* Direct the reinstatement of the pupil immediately, or on a particular date.

In reaching a decision the GBDC will consider whether the suspension was lawful, reasonable and procedurally fair and whether the headteacher followed their legal duties. All parties will withdraw before making a decision the clerk will stay.

Minutes will be taken of the meeting, and a record of evidence considered kept. The outcome will also be recorded on the pupils educational records.

The GBDC will notify, in writing, the headteacher, parents and the LA of its decision, along with reasons for its decision, without delay.

Where the suspension is permanent the GBDC’s decision will also include the following:

* The fact that it is permanent
* Notice of parents rights for the suspension to be reviewed by an independent review panel,

And:

* The date by which an application for an independent review must be made
* The name and address to whom an application for a review should be submitted
* That the application should set out the grounds on which it is being made and that, where appropriate, reference to how the pupils SEN are considered to be relevant to the suspension
* That, regardless of whether the pupil has recognised SEN, parents have a right to require the GBDC to appoint an SEN expert to attend the review
* Details of the role of the SEN expert and that there would be no cost to the parents for this appointment
* That parents must make clear if they wish for an SEN expert to be appointed in any application for a review
* That parents may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents may also bring a friend to the review
* The GBDC should provide the above information by direct delivery to the parents, via email where agreed or first class post. Notice will be deemed as given on the day of delivery or the day after the notice is posted.
* That if parents believe that the suspension has occurred as a result of discrimination, they make a claim under the Equality Act 2010 to the First-tier Tribunal (Special Educational Needs and Disability) in the case of disability discrimination, or the County Court, in the case of other forms of discrimination.

**Where a child may have an EHC plan the GBDC may need to review the plan and reassess the child’s needs, in consultation with parents, with a view to identifying a new placement.**

**The GBDC should have regard to the relevant statutory guidance when carrying out its duties in relation to the education of looked after children.**



**An independent review**

If parents apply for an independent review the GBDC will arrange for an independent panel to review the decision of the GBDC not to reinstate the pupil.

Applications for an independent review must be made within 5 school days of notice being given to the parents by the GBDC of its decision to not reinstate a pupil. Applications made outside the legal time frame must be rejected by the GBDC.

A panel of 3 or 5 members will be constituted with representatives from each of the categories below.

Where necessary a SEND expert will be appointed to give advice in person.

* 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 head teacher 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 of the academy or GB (of the suspending school)
* Are the headteacher of the suspending school, or have held this position in the last 5 years
* Are an employee of the academy, or the GB, of the suspending school
* Have, or at any time have had, any connection with the school, GB, parents or pupil, or the incident leading to the suspension, which might reasonably be taken to raise doubts about their impartially.

A clerk will be appointed to the panel

The independent panel will decide one of the following:

* Uphold the GBDC’s decision
* Recommend that the GBDC reconsiders reinstatement
* Quash the GBDC’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.

All panel members and clerks must be trained.

Appointing a SEN expert

* 187. If requested by parents with their application for an independent review, the local authority/academy trust must appoint a SEN expert to attend the review and must cover the associated costs of this appointment.
* The local authority/academy trust must make arrangements to indemnify the SEN 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.
* Parents or a pupil if they are 18 years or over have a right to request the attendance of a SEN expert at a review, regardless of whether the school recognises that their child has SEN.
* Individuals may not serve as a SEN expert if they have, or at any time have had, any connection with the local authority, academy trust, school, parents or pupil, or the incident leading to the permanent exclusion, which might reasonably be taken to raise doubts about their ability to act impartially. However, an individual should not be assumed to have such a connection simply because they are an employee of the local authority/academy trust.
* The SEN expert must be someone who has expertise and experience of special educational needs considered by the local authority/academy trust as appropriate to perform the functions specified in the legislation.
* The SEN expert should be a professional with first-hand experience in the assessment and support of SEN, as well as an understanding of the legal requirements on schools concerning SEN and disability. Examples of suitable individuals might include educational psychologists; specialist SEN teachers; SENCOs; and behaviour support teachers. Recently retired individuals are not precluded from fulfilling this role, though the local authority/academy trust would need to assure themselves that the individual had a good understanding of current practice and the legal requirements on schools in relation to SEN and disability. Additionally, they should also be able to demonstrate that they have experience working in schools.
* Whilst individuals are not automatically taken to be partial simply because they are an employee of, or contracted by, a local authority or academy trust, they should not have had any previous involvement in the assessment or support of SEN for the permanently excluded pupil, or siblings of the permanently excluded pupil. The local authority/academy trust should request that prospective SEN experts declare any conflict of interest at the earliest opportunity.
* The final decision on the appointment of a SEN expert is for the local authority/academy trust to make but it should take reasonable steps to ensure that parents have confidence in the impartiality and capability of the SEN expert. Where possible, this may include offering parents a choice of SEN experts.

Social workers and VSH should attend the IRP where necessary.

**School registers**

A pupil’s name will be removed from the school admissions register if:

* 15 school days have passed since the parents were notified of the suspension panel’s decision to not reinstate the pupil and no application has been made for an independent review panel,

Or

* The parents have stated in writing that they will not be applying for an independent review panel.

Where an application for an independent review has been made, the GB will wait until the review has concluded before removing a pupil’s name from the register. They should then be returned to the LA.

Where alternative provision has been made for a suspended pupil and they attend it, Code B (educated off-site) or D (dual registration) will be used on the attendance register.

Where excluded pupils are not attending alternative provision, code E (absent) will be used.

The clerk should notify all parties of the outcome of the IRP immediately.

**Returning from a fixed term suspension**

The school will offer the pupil a fresh start, helping them to understand the impact of their behaviour on themselves and others, teaching them how to meet the high expectations of behaviour within the school culture, fostering a renewed sense of belonging within the school community and build engagement with learning.

Following a fixed-term suspension, a re-integration meeting will be held involving the pupil, parents, a member of senior staff (and other staff if appropriate).

The following measures may be implemented when a pupil returns from a fixed-term suspension:

* Agreeing future behaviour
* following policy or plan individual to the pupil
* discussion of future plans if behaviours continue

All behaviour is monitored half termly and reported to the headteacher/governing body. This includes how many suspensions have taken place that half term.