



# Behaviour, Anti-Bullying and Exclusions Policy

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**Covid 19 - ISSUE 2**

**Effective from 1 September 2020**

## Document provenance

This policy should be used with immediate effect from 1 September 2020 when E-ACT academies re open for all pupils.

This replaces Issue 1 as published in June 2020.

### **This Issue 2 remains in effect until further notice.**

This policy reflects the government guidance issued in relation to the reopening of schools from September 2020, and the subsequent guidance that followed from the Department for Education (DfE). The government guidance for the full return of all pupils from September 2020 can be found here: <https://www.gov.uk/government/publications/actions-for-schools-during-the-coronavirus-outbreak/guidance-for-full-opening-schools>

It also includes reference to updated statutory guidance that describes temporary changes issued by DfE about the school exclusion process due to coronavirus, including the timescales to which such changes pertain.

The Executive Leadership Team and our Regional Directors have reviewed all of the guidance about the reopening of schools and we will adhere to the control measures outlined. Headteachers and Regional Directors have worked together to ensure risk assessments adhere to all government guidelines and the revised system of controls: Prevention and Response to any infection.

This updated policy will help staff, parents and pupils understand and uphold Trust-wide expectations about our purposeful measures to help pupils adapt to new environments and gradually return to learning in our academies from September 2020.

The Executive Leadership Team will review this revised policy during the autumn term 2020. We will reissue additional policy updates as needed in response to further updates from the DfE and other government advice.

## **Section A: Behaviour, Anti-bullying and Exclusions Policy.**

### **1. Introduction and Purpose**

- 1.1. As pupils return to our academies in September, we will enable all pupils and staff to learn about how everyone can adapt to new ways of working in classrooms, communal spaces, and corridors. This will help everyone to feel that during a period of return, not just at the start of September but into the new academic year, we can support pupil health and wellbeing and establish new expectations we are implementing in our academies.
- 1.2. Our academies will look and feel different in both the physical space and in the new routines we are implementing to adhere to government guidance issued in July 2020. The changes to arriving and leaving the academy, changes to the timetable and academy day, and how we organise our pupils and staff, will mean some new routines to behaviour. We will help pupils understand why these new behaviour routines are essential to developing and sustaining the safest environment possible for pupils and staff. In particular our day to day routines for smaller classes and specific groupings, both in classrooms, at arrival and leaving times and in processes we need to follow during the day, will we acknowledge, take some time to adapt to.
- 1.3. Getting the balance right in setting our expectations in this policy and supporting pupils' mental health after a significant period of uncertainty, lockdown and now full re opening is critical. Our Relationships and Recovery Curriculum developed for all of our pupils will help them adjust to news ways of living, learning and re-establishing relationships with their peers and with staff. The activities within this curriculum will not only support pupil mental health but will also begin pupils on a journey to return to learning and help staff determine where pupils need the most help. This curriculum will guide pupils throughout the full re-opening period and for many months ahead in the new academic year.
- 1.4. Through the Relationships and Recovery Curriculum and through the work of our trained Mental Health First Aiders, we will be able to help all pupils but especially those who exhibit behaviour that may be caused stress and anxiety from the required lockdown and the partial reopening in June and July 2020.
- 1.5. The sections in this policy explain the routines we will expect pupils to follow in all of our academies so that there is a Trust-wide, shared understanding between pupils, teaching staff, professional services staff, parents/carers, our E-ACT Ambassadors and the Regional Education teams to create a calm, supportive and purposeful atmosphere.
- 1.6. In addition to the Trust-wide expectations set out in this policy, each Headteacher and senior leadership team will append and publish on their academy website, an additional Code of Conduct setting expectations and rewards for good conduct, behaviour, and good attitudes to learning within their specific context. The academy Code of Conduct will enable each academy also to include specific guidance in this period of full reopening and establishing new behaviours over the coming months.
- 1.7. To know how to uphold the guidance in this policy all staff will receive briefings on INSET days giving them assurance about how changes to the academy will impact on new behaviour routines.

## 2. Scope

2.1. This policy is applicable to E-ACT pupils in all academies within the Trust.

## 3. Legislation and Regulation

3.1. This policy takes account of the Academy's (E-ACT's) public-sector Equality Duty set out in Section 149 of the Equality Act 2010<sup>1</sup>. This means that the Academy will take account of a pupils' age, gender, racial heritage, gender identity, disability, sexuality or faith or no faith but will not discriminate because a pupil has one or more of the protected characteristics. The Academy's inclusive culture will ensure that pupils with different protected characteristics will feel safe and secure from any form of abuse or poor behaviour.

3.2. The legal framework behind this policy lies in the following legislation:

- Behaviour and Discipline in Schools January 2016 guidance<sup>2</sup>;
- Education Act 1996<sup>3</sup>;
- School Standards and Framework Act 1998<sup>4</sup>;
- Equality Act 2010<sup>5</sup>.
- DfE Exclusion from maintained schools, academies, and pupil referral units in England, 2017<sup>6</sup>.

3.3. The Education and Inspections Act 2006 states that:

- *The behaviour policy is designed to promote good behaviour and discipline;*
- *The Headteacher must determine measures to promote pupils' self-discipline and proper regard for authority; encourage good behaviour and respect for others and, in particular, prevent all forms of bullying among pupils.*
- *The Headteacher must make sure the standard of behaviour of pupils is acceptable; make sure that pupils' complete educational tasks, and make sure that pupils' conduct is regulated;*

3.4. The standard of behaviour for pupils is determined by the expectations set out in this revised Trust-wide policy and in the academy specific Code of Conduct set by the Headteacher and published on the academy website using the form in Appendix 1.

3.5. In response to the government guidance for full reopening of schools, all of our Headteachers have worked with our Regional Directors and the National Directors to make certain that the revised Codes of Conduct for each academy meet the requirements set by the Trust in full reopening.

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<sup>1</sup> <https://www.gov.uk/guidance/equality-act-2010-guidance>

<sup>2</sup> [Behaviour and Discipline in Schools guidance](#)

<sup>3</sup> [Education Act 1996](#)

<sup>4</sup> [School Standards and Framework Act 1998](#)

<sup>5</sup> [Equality Act 2010](#)

<sup>6</sup> <https://www.gov.uk/government/publications/school-exclusion>

## **New expectations and support for pupils returning to our academies.**

### **4. Expectations for pupil conduct in full re-opening and a sustained period of return and recovery.**

- 4.1. E-ACT expects all academies to uphold the Trust-wide guidance issued in meeting the Public Health England (PHE) 'System of Controls' and follow all procedures for pupil conduct.
- 4.2. From September 2020 we will expect academies to help all pupil's self-discipline and learn about new requirements in place not only for stringent hygiene procedures but also for the ways in which we will provide a broad and balanced curriculum in new daily routines. Headteachers will do everything we can to minimise contact and mixing of pupils in our new routines and our organisation of the curriculum.
- 4.3. Our new measures are outlined below. We will work together to ensure staff and pupils understand why these measures are important to a well-functioning academy environment.

#### **Moving around the academy. Pupils will be expected to:**

- Understand and follow requirements for their class or year group 'bubbles': these will be explained to all pupils when they return;
- Follow all guidance and directions on signage around the academy and in classrooms, moving sensibly and calmly with clear instructions from staff;
- Move calmly to washrooms, outdoor areas, into and out of the academy at the designated times allocated for pupil groups;
- Observe instructions on signage to help one-way routes around corridors and other academy spaces so that passing in corridors is minimised. We will expect and help pupils within the specific groups to keep their distance from one another;
- Remain in classrooms where possible and teachers will move around to their respective groups; when told to remain in classrooms and when told to move pupils must follow these instructions to mitigate against cross-contamination of our groups throughout the academy.

#### **Behaviour in the outside spaces for exercise and breaks**

- All pupils will be expected to follow the guidance from staff about social distancing when they are outside - staff will remind pupils why this is important;
- Pupils will be expected to comply with the staggered break times and lunchtimes and when outside avoid using any equipment that has been taped over to prevent usage.

#### **Behaviour in classrooms. Pupils will be expected to:**

- Understand and follow new classroom arrangements: desks will be arranged in classrooms to face the front and pupils must follow clear instructions from staff about where to sit in their designated classrooms;
- Follow instructions to the designated class/group (which may be new to them) and avoid larger groups of pupils in the communal areas or other classroom areas that groups may use.

#### **Behaviour expectations for cleaning hands more often and ensuring good respiratory hygiene.**

##### **Pupils will be expected to:**

- Follow all guidance about how to wash hands frequently and for the required 20 seconds with soap and water;
- Clean their hands before and after eating, and after sneezing or coughing;
- Try and avoid touching mouths, eyes, and noses;

- Place tissue waste in the bins provided: each classroom will have disposable tissues;
  - Use the hand sanitiser pumps around the academy in washrooms, classrooms and in communal areas;
  - Follow directions from staff to clean their hands on arrival at the academy,
  - Follow the directions to '**catch it, bin it, kill it**';
  - Follow all guidance in the academy code of conduct relating to the use of face coverings.
- 4.4. Our E-ACT expectation is that all pupils should have regard for authority. Our Academies will not accept the following behaviour:
- Verbal assaults, mimickery, mockery, derogatory language or inappropriate banter on staff, other pupils or visitors;
  - Damage to Academy property, staff or other pupils' property, including the building, equipment and resources;
  - Substance abuse;
  - Behaviour, which is against the criminal law, civil law or contravening the Equality Act 2010;
  - Physical assaults on staff, visitors or other pupils;
  - Behaviours that fall short of expectations for good behaviour set out in the Academy specific Code of Conduct in Appendix 1.

## 5. Bullying Behaviour - always unacceptable

- 5.1. Bullying behaviour is always unacceptable and will not be tolerated because:
- It is harmful to the person who is bullied, and to those who engage in bullying behaviour, and those who support them, and can in some cases lead to lasting psychological damage and even suicide;
  - It interferes with a pupil's right to enjoy his/her learning and leisure time free from intimidation;
  - It is contrary to all our aims and values, our internal culture, and the reputation of our academies.
- 5.2. Bullying is behaviour by an individual or group that intentionally hurts another individual or group either physically or emotionally. Bullying will be always be taken seriously if a pupil feels they are being bullied whether it fits into the definition or not.

### **Pupils in breach of measures to minimise contact and socially distance as a result of bullying behaviour.**

- 5.3. The implications for any incident of **physical bullying** are significant in any circumstance.
- 5.4. Our academies will deal with such bullying behaviour robustly. We will always take immediate and necessary action to sanction pupils in breach of specific behaviour codes that flout the necessary measures that have to be in place from September onwards.
- 5.5. Any physical contact of a bullying nature listed below is in direct breach of the Trust-wide measures to minimise contact of pupils and socially distance pupils and staff to keep them as safe as possible.
- 5.6. Types of physical bullying:
- **Physical:** including, hitting, kicking, pushing people around, spitting; or taking, damaging or hiding possessions, barging, hurting, stamping

**5.7. If there is any incident of physical bullying such as those listed above, we will take the following immediate steps:**

- a. Take the pupils to an area where they cannot come into contact with others, this may include the application of positive handling
- b. Administer first aid if necessary and we will ensure that in doing so the staff member is wearing Personal Protective Equipment (PPE)
- c. As necessary, remove the possession/s involved in the incident and wipe these with appropriate cleaning materials
- d. Call the parents/carers of pupils involved in the incident. In certain circumstances we may request that they collect and remove their child from the academy building, following the guidance for social distancing and minimising contact displayed at the academy entrances and in reception. On occasion this may result in Headteachers considering issuing a fixed term exclusion.

5.8. If PPE is worn by a member of staff in administering first aid after such an incident of bullying and physical contact has occurred, it is essential that it is used properly and instructions will have been given to staff during their INSET training. This includes scrupulous hand hygiene and following guidance about how to put PPE on and take it off safely in order to reduce self-contamination.

5.9. Face masks must:

- Cover both nose and mouth
- Not be allowed to dangle around the neck
- Not be touched once put on, except when carefully removed before disposal
- Be changed when they become moist or damaged; and
- Be worn once and then discarded – hands must be cleaned after disposal.

5.10. Each academy specific Code of Conduct (published on each academy website for September 2020) will also refer to the steps that will be taken to separate pupils based on the bullet points above and for staff to handle such situations in wearing PPE.

5.11. The Trust will also not tolerate other types of bullying which may include:

- Verbal: any comments of a bullying nature made in relation to the Covid 19 virus pandemic
- Verbal: including name-calling, taunting, teasing, insulting, mockery, mimickery, inappropriate banter or lyrics to raps, shaming e.g. fat shaming;
- Exclusionary behaviour: intimidating, harassing, isolating, or excluding a person from a group;
- Extortion: threatening to, or taking money, equipment, resources, blackmailing;
- General unkindness: spreading rumours or writing unkind notes, phone texts or emails;
- Cyberbullying: using the internet, games, mobile telephones, social networking sites etc. which upsets someone else;
- Non-verbal sucking teeth, staring at someone, pulling faces, gestures;
- Sexist: making comments or referring in a derogatory way to a person's gender or gender reassignment;
- Racist: regarding someone's culture, heritage, country of birth or nationality;
- Homophobic: related to a person's perceived or actual sexual orientation
- Disability: related to a person's disability or special educational need, medical needs;

- Pregnancy: related to pregnancy, paternity, or maternity
  - Marriage/civil partnership: related to someone's marital or partnership status
  - Faith: related to someone's faith, belief or no faith, social standing - related to a person's home circumstances, poverty
  - Intelligence: related to someone who does as they are told, high achieving, and completing their work.
  - Sexual: talking to or touching someone in a sexually inappropriate way, up-skirting, asking for photographs or intimate parts or engaging in phone or written sexual conversations;
- 5.12. **Intention:** Some individuals may see their hurtful conduct as "teasing, banter" or "a game" or "for the good of" the other person. These forms of bullying are **equally unacceptable** but may not be malicious and can often be corrected quickly with advice and without disciplinary sanctions. A bully who does not respond appropriately to advice or sanctions will be fully supported to remedy their behaviour and understand why this is totally unacceptable.
- 5.13. **If such bullying conduct persists the Headteacher:**
- will call and talk to the parents/carers concerned
  - may decide to hold a virtual meeting on TEAMS with parents, if it is reasonable to do so, to determine how the pupil must remedy their behaviour. If possible a face to face meeting may be held but this will observe social distancing.
- 5.14. As pupils return and our academies develop new ways of working, we will expect pupils to uphold good standards of behaviour. We will ensure that Headteachers and our Regional Education Directors (REDs) are in regular communication to report and monitor any instances where an act of physical bullying has taken place. The REDs will update the National Director of Education (NDE) of all instances where a physical incident of bullying occurs.
- 5.15. **Legal aspects:** A person who makes a physical or sexual assault on another, including "up-skirting", or who steals or causes damage to the property of another, commits a criminal offence and also a civil wrong known as a "tort", can all lead to legal consequences outside the Academy.
- 5.16. Bullying behaviour may also be regarded as threatening behaviour or harassment which can be either a criminal offence or a civil wrong.
- 5.17. Misuse of electronic communications could also be a criminal offence; for example, it is an offence to send an electronic communication (such as a text message or email) to another person with the intent to cause distress or anxiety.

## **6. Initial complaint about a bullying incident - the process to follow with additional guidance to support social distancing requirements.**

- 6.1. Firstly, respond quickly and sensitively by offering advice, support, and reassurance to the alleged victim, then:
- report the allegation to the appropriate member of staff - this may be pastoral leader and/or senior leader
  - a thorough investigation must be carried out and the investigating member of staff must:
    - speak with, and take notes from, the alleged bully as soon as possible and



- the staff member should observe social distancing guidance
- speak with any witnesses without delay and form an initial view of the allegation, can the alleged bully be seen on a no-names basis - if this action is necessary any discussion with a witness/es to the bullying incident must be conducted to minimise contact and maintain social distancing and the staff member must observe the guidance set by the Trust.

## 6.2. The outcomes of an investigation can be:

- a) There has been a misunderstanding which can be explained sympathetically to the alleged victim and with clear advice given to the alleged bully in modifying their behaviour as appropriate.
- b) Complaint is partially justified:
  - Advice and support for the victim and, where appropriate, establishing a course of action to help the victim including support from external services where appropriate and this must meet all social distancing guidance;
  - Advice and support to the bully in trying to change their behaviour; this may include clear instructions and a warning or final warning;
  - Consideration of the motivation behind the bullying behaviour and whether external services should be used to tackle any underlying issues of the bully which contributed to the bullying behaviour. If these considerations lead to any concerns that the bully may be at risk of harm, the Academy's safeguarding and child protection procedures must be followed.
- c) Complaint is justified. Our approach:
  - Where possible and in upholding guidance to minimise contact and socially distance, the academy may decide to hold a supervised meeting between the bully and the victim (only with the agreement of the victim) to discuss their differences and the ways in which they may be able to avoid future conflict;
  - We will not in the current period of full reopening and requirements to socially distance, move a pupil to another group, classroom, or 'bubble'; they will normally remain in their designated class group/bubble and we will talk to the pupils concerned before taking any further sanctions; we will keep this under review in the autumn term;
  - A disciplinary sanction against the bully, in accordance with the Academy's behaviour and discipline conduct will be issued.

6.3. Importantly, any behaviour or bullying incident must be followed by showing and teaching the pupils how to behave to prevent any further incidents.

## **7. Rewarding good behaviour**

7.1. As a Trust we believe that rewards can be more effective than punishment in motivating pupils.

7.2. As pupils return for the new academic year, the positive reinforcement of their good behaviour and ability to follow new guidelines and processes is critical to helping build up their confidence. We recognise the challenges that our pupils face and we want to help them through encouragement and support, praising and rewarding their attitudes and good behaviour in what will feel and appear different to their usual environment.

7.3. Our Academies are committed to promoting and rewarding good behaviour and may do so in

some of the following ways:

- Praise
- Positive postcards/letters home
- Class and personal dojo points
- Contact home by staff text, phone, e-mail and/or letter
- Internal reward points, house points, form points
- Stickers
- Certificates.

## **8. Poor behaviour: use of disciplinary sanctions**

- 8.1. Teachers have a statutory authority to discipline pupils whose behaviour is unacceptable, who break the Academy rules or who fail to follow a reasonable instruction. This power also applies to paid staff such as teaching assistants.
- 8.2. In this full re-opening period Headteachers and staff will handle sensitively any issues arising from pupil's behaviour as they return. In all cases any use of sanctions must always be reasonable and proportionate and must follow the guidance in this policy.
- 8.3. The Academy will consider the range of protected characteristics identified in the Equality Act 2010 plus individual pupil needs such as any special educational needs, parental support/reaction.
- 8.4. The following range of disciplinary sanctions that may be implemented as appropriate:
  - Behaviour logs
  - Taking points away, class dojos taken away, rewards removed
  - Verbal warning/reprimand
  - Detentions which follow all control measures for the specific groups in place in the academy and the requirements for minimising contact of pupils and sustaining social distancing.

## **9. Detentions as sanctions**

- 9.1. During the partial reopening for particular year groups in June and July 2020 we ceased the use of detentions.
- 9.2. From September 2020 we will reinstate the use of detentions as a sanction both during the academy day and in very rare cases outside academy hours to pupils under 18 years of age.
- 9.3. Any detention given during the academy day will require the Head of Year, Key Stage Leader/Coordinator to ensure that detentions take place within the required areas/designations for that class or year group.
- 9.4. The Headteacher will decide which staff may give detentions to pupils.
- 9.5. Lunchtime detentions must allow pupils time to drink, eat and go to the toilet; this must be subject to all guidance for hygiene measures and movement around the academy.

## **10. Pupils with behavioural issues - risk assessment and decision making in full reopening**

- 10.1. For some pupils with particular behaviour needs, academies will need to undertake thorough risk assessments to determine how best to support these pupils in their full return to the

academy.

- 10.2. This may for example include pupils who will struggle to follow instructions, display significantly disruptive tendencies or for whom a change of environment will be extremely difficult to manage in modifying their behaviour and sustaining this over a period of time. If this is the case the Headteacher will work closely with relevant teaching and support staff to help these pupils re integrate back into learning and a new daily routine in the academy.

## **11. Use of internal inclusion/exclusion rooms, isolation areas, reflection spaces and areas to improve pupil behaviour.**

- 11.1. We recognise that there will be some challenges in pupil behaviour as we return pupils from a lengthy period away from our academies. Routines are new and reintegrating pupils back to learning may take time. As we re-open academies, implement social distancing measures and set out new ways of working for class management, we will be cautious in our use of any internal inclusion areas to help pupils remedy behaviour issues.
- 11.2. Each Headteacher will review use of academy spaces with their Regional Education Director and Regional Operations Director by September 2020. Where possible we will include a breakout area to work closely with supporting our pupils and in secondary academes this is likely to be within the year group area. This will mean that pupils subject to internal inclusion remain within their specific group; this reduces risk of cross contamination.
- 11.3. Headteachers will state explicitly in their Academy specific Code of Conduct how a supportive, inclusion area may operate. Use of any inclusion area must enable the academy to preserve its measures to keep the specific groups apart and sustain the organisation of groups and the academy day as planned for full reopening.
- 11.4. The use of designated areas outside of classrooms to internally exclude pupils for poor or inappropriate behaviour, must only be used for short periods of time. The removal of a pupil from a lesson to an area where a pupil is required to reflect on and modify their behaviour, must provide the pupil with high quality work and be supervised by staff in charge of the area. This must adhere to the requirements for minimising contact between pupils and between groups. Headteachers will ensure that the senior leadership teams check that usage of such areas meet new requirements for September reopening.
- 11.5. Each affected pupil must be subject to a personal behaviour plan where the following is outlined:
- Reasons and rationale for their removal from normal lessons
  - Length and period of removal
  - Strategies and activities the academy will be using during the placement to ensure their behaviour is modified and improves
- 11.6. Pupils must not be placed in an area of exclusion for longer than is necessary. All pupils placed in an area of isolation or internal exclusion must receive support to help them correct poor behaviour and learn how to take responsibility for their actions.
- 11.7. Headteachers must retain an up to date record of all incidents of internal exclusions and ensure this data is analysed by the senior leadership team to review the best practice in supporting pupils to reduce incidents leading to removal of pupils from lessons.

## 12. Record keeping and Monitoring

- 12.1. Every complaint or report of poor behaviour or bullying must be entered and recorded in accordance with each academy's own internal system and process (incident book/CPOMs/ SIMS).
- 12.2. When implementing this policy, every pupil should be encouraged to understand that:
  - Every complaint of bullying and poor behaviour will be taken seriously;
  - A pupil who complains will receive support and advice and in many cases the problem can be dealt with on a no names basis;
  - The primary aim will be for the bullying/poor behaviour to cease, not the punishment of the bully unless this is necessary.
- 12.3. Within the stringent social distancing guidelines, each academy may decide to use a restorative approach to solve the problem between pupils but it is the victim who will select whether this takes place or not. If an academy chooses to undertake this approach then the social distancing must be followed.
- 12.4. Each academy will, for most but not all, serious incidents, inform parents/carers as to what has happened so that they can give their support. Where the Academy staff feel that the pupil may be unsafe or vulnerable because of telling parents (in the case for example of transgender or homophobic bullying) the staff will tackle the incident themselves with the help of specialists. The Academy staff must ensure that the Designated Safeguarding Lead (DSL) is made aware in these circumstances and all information is recorded on CPOMS.

## 13. Exclusions - Use of Fixed Term (FTE) and Permanent Exclusions (PEX)

- 13.1. E-ACT endeavours to ensure that all exclusion procedures at our academies conform with statutory guidance set by the Department for Education (DfE) in 2012 and updated in September 2017<sup>7</sup>. In addition, **please see Section 15 below in this policy, referring to DfE Statutory Guidance that has been updated in May 2020, regarding temporary changes to the school exclusion process. Currently the temporary changes are in place until 24 September 2020.**
- 13.2. In upholding statutory guidance, it is only the Headteacher or acting Headteacher that may exclude a pupil.
- 13.3. In the current full re-opening period where any instance of bullying, significantly poor behaviour or a particular incident occurs that may warrant a fixed term or permanent exclusion, then the Headteacher will review the sanction needed and consult with the RED. This is not to remove the statutory power of the Headteacher but to enable the REDs, National Director of Education (NDE) and the Executive Leadership Team (ELT) to understand fully situations if they emerge.
- 13.4. All parties involved in exclusions, including Headteachers, parents, Regional Directors, Regional System Leaders, Ambassadors, and Independent Review Panels, must have regard to statutory guidance.

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<sup>7</sup> <https://www.gov.uk/government/publications/school-exclusion>

- 13.5. Section B in this policy sets out in more detail the exact steps the Trust and academy will take. Section B sets out rights and responsibilities around exclusion to ensure that all exclusion proceedings at E-ACT are conducted in a fair and just manner, with appropriate notice to all, full participation of relevant parties, and within the statutorily designated timelines.

#### 14. Duty to inform parents

- 14.1. The parent/carer(s) must be informed immediately and in writing of the length and type of exclusion, and of their right to make representations to the Headteacher. Pupils over 18 have to be informed and have the right to appeal on their own behalf.
- 14.2. Pursuant to the duty of care placed on schools to ensure the welfare of pupils, parent/carer(s) must be advised of an exclusion prior to the pupil being sent off-site. E-ACT uses standard letters for notifying parents of exclusions and these letters set out their rights of representation.

#### 15. Important information from the Department for Education (DfE) - May 2020

- 15.1. On 29 May the Department for Education (DfE) issued an **update to statutory guidance setting out temporary changes to the school exclusion process due to coronavirus**. The temporary changes and timescales for these changes are itemised below. The guidance can be found at:  
<https://www.gov.uk/government/publications/school-exclusion/changes-to-the-school-exclusion-process-during-the-coronavirus-outbreak>
- 15.2. The processes that the Trust must adhere to in upholding these temporary changes will be overseen by the National Director for Education (NDE). The NDE will support our Regional Education Directors and Headteachers in such processes if a pupil is subject to a fixed or permanent exclusion.
- 15.3. **The temporary changes to the school exclusion process are in statute and came into force on 1 June 2020 and apply to all exclusions occurring from 1 June to 24 September 2020 (inclusive of those dates)**. As noted in the updated statutory guidance from the DfE these arrangements also apply to:
- *permanent and fixed term exclusions occurring before 1 June which have not yet been considered by the governing board of the school*
  - *permanent exclusions occurring before 1 June which have been considered by the governing board, if they have chosen not to reinstate the pupil and the time limit to apply for a review of this decision has not passed*
  - *permanent exclusions occurring before 1 June where a parent (or pupil aged 18) has requested a review of a governing board's decision, but this has not yet happened*

*Any exclusions covered by the arrangements will continue to be subject to them after 24 September 2020, until the procedures for scrutiny of the exclusion have been exhausted.*

- 15.4. The normal arrangements and procedures that must follow a decision to exclude on disciplinary grounds are described in the 2017 [statutory guidance 'Exclusion from](#)

[maintained schools, academies and pupil referral units in England](#)’. Those remain unchanged apart from the specific items below in 15.5 to 15.9:

#### 15.5. **Use of remote access meetings - using TEAMS**

15.5.1. Under the new temporary changes, currently **up to 24 September 2020**, we are as Trust able to consider holding an exclusion panel via telephone or video-conference software (TEAMS), providing that conditions set out in the updated DfE guidance are met.

15.6. If an exclusion panel is unable to meet face to face and we consider holding an exclusion panels by TEAMS, the following conditions must be satisfied:

- all the participants agree to the use of remote access
- all the participants have access to the technology which will allow them to hear and speak throughout the meeting, and to see and be seen, if a live video link is use;
- all the participants will be able to put across their point of view or fulfil their function
- the meeting can be held fairly and transparently via remote access.

15.7. If the 4 items above are met the Headteacher will agree with their respective Regional Education Director (RED) that the panel may meet virtually. Please note that in accordance with DfE guidance that *‘though all participants must have agreed to the use of remote access, where a parent or pupil has given their agreement for a meeting to be held via remote access, the other participants should make reasonable efforts to accommodate that preference unless there is a clear reason not to.’*

#### 15.8. **Arranging a remote access meeting**

15.8.1. If a decision is taken to proceed with a panel meeting virtually then the Headteacher will ensure that all participants are made aware of how to use the virtual technology. Families and pupils will also be made aware that although it may be reasonable to hold a panel virtually, they do not have to agree to it. If families/pupils do not agree to meet virtually then the Headteacher will explain that the panel is likely to be delayed.

15.8.2. If once a virtual exclusion panel commences there are issues with the technology which are prohibiting those at the meeting being heard or contributing fairly, and panel members cannot engage with the required processes, then the Chair may decide to adjourn the panel hearing.

15.8.3. The use of virtual means to hold an exclusion panel or IRP panel does not change all other procedural requirements that are set out in the DfE September 2017 guidance. For example, parents may request a SEND expert supports them and their child at an exclusion hearing and parents can bring another representative to the panel meeting.

#### 15.9. **The timescales for conducting exclusions panel meetings and IRPs**

15.9.1. As a result of social distancing and the gradual return of pupils to academies as they re-open, the updated temporary statutory guidance means that the timescales for panels to meet for exclusions and IRPs can be extended if certain conditions are met. This is set out as below in accordance with the updated DfE guidance, May 2020.

15.9.2. If it has not been reasonably practicable for the exclusion panel to meet within the required timescale, either face to face or remotely, then the time limit for the meeting will be extended. The bullets below set out the updated temporary requirements from the DfE:

- **Meetings to consider permanent exclusions, and fixed period exclusions resulting in the pupil missing more than 15 school days in a term.** *If a pupil is permanently excluded or receives a fixed period exclusion which results in them having been excluded for 16 or more school days in a term, then the governing board should try to meet to discuss reinstatement within 15 school days.*
- *If this has not been possible then the limit will be extended to 25 school days, or as long as reasonably necessary for a reason related to coronavirus.*
- **Meetings to consider fixed period exclusions resulting in the pupil missing between 6 and 15 school days in a term.** *If a pupil receives a fixed period exclusion which results in them having been excluded for at least 6 school days in a term but not more than 15 school days in that term, and the parent (or pupil, if aged 18 or above) chooses to make representations about the exclusion, then the governing board should meet to discuss reinstatement within 50 school days.*
- *If this has not been possible then the limit will be extended to 60 days, or as long as reasonably necessary for a reason related to coronavirus.*

15.9.3. In addition to the items above, the DfE updated temporary changes do allow for a change to the timescales for application for independent reviews of exclusions. This is set out as follows:

- *Where a governing board declines to reinstate a pupil who has been permanently excluded, parents (or the excluded pupil, if they are 18 years old or above) can apply for a review of the governing board's decision. For exclusions covered under these arrangements, **the deadline for applications has increased to 25 school days from the date on which notice in writing of the governing board's decision is given to parents, or directly to the pupil if they are 18 or above.***
- *Schools **must wait for the extended period of 25 school days to pass without an application having been made** before deleting the name of a permanently excluded pupil from their admissions register, in accordance with the Education (Pupil Registration) (England) Regulations 2006 as amended.*

15.9.4. There is also a temporary change to timescales for the meetings of independent review panels (IRPs) to consider permanent exclusions, as follows:

- *If it has not been reasonably practicable for a review panel to meet in person within the original time limit of 15 school days for reasons related to coronavirus (COVID-19), and it has not been reasonably practicable to meet by way of remote access for a reason relating to the other conditions for a remote access meeting, **the timescale for the meeting will be extended to 25 school days, or as long as reasonably necessary for a reason related to coronavirus (COVID-19).***
- *The time limit for an IRP meeting will not be extended if it has already passed before 1 June.*

## 16. Use of reasonable force - additional guidance for staff

- 16.1. In re-opening our academies and in upholding the guidance to socially distance and minimise contact, the Trust recognises that on very rare occasions trained staff may need to use force a reasonable and proportionate way.
- 16.2. Force may be used for the purpose of preventing a pupil from doing (or continuing to do) any of the following:
  - Committing a criminal or civil offence;
  - Causing personal injury to, or damage to the property of, any person,
  - Prejudicing the maintenance of good order and discipline at the Academy.
- 16.3. The nature of such intervention will likely mean that minimising contact and social distancing regulations are breached.
- 16.4. In such occurrences the member of staff should:
  - Manage the situation using appropriate techniques
  - Escort the pupil/s to a designated area where they cannot come into contact with others
  - Administer first aid if necessary and ensure that in doing so the staff member is wearing Personal Protective Equipment (PPE)
  - Ensure that the Headteacher is made aware if the incident so that the incident process can be followed to not only record the nature of the incident but also staff will need to record any aspect of physical contact and close proximity that occurred.
- 16.5. Where physical restraint and positive handling techniques are used by staff, this must be recorded in writing and the pupil's parents will be informed about incidents involving the use of force.
- 16.6. Force is never used as a form of punishment.
- 16.7. Academies will use with caution and through verbal cuing and distancing, low level guided walking preventing access to or from a physical space.
- 16.8. Academies will always enter incidents of physical restraint and positive handling techniques on CPOMs and inform parents of action taken to manage a pupil through authorised techniques.

## 17. Guidance for Searching, Screening and Confiscation

- 17.1. Headteachers and staff authorised by them have a statutory power<sup>8</sup> to search pupils or their possessions, without consent, where they have reasonable grounds for suspecting that the pupil may have a prohibited item
- 17.2. Staff can search any pupil for any item if the pupil agrees. The ability to give consent may be influenced by the child's age or other factors. The academy must follow each step in the statutory guidance (*Searching, screening and confiscation, Advice for headteachers, school staff and governing bodies*, DfE January 2018) and it is critical in upholding social distancing that the no contact is made between a pupil and staff member and that 2 metres of distance is sustained.



- 17.3. **Prohibited items are:**
- Weapons or knives
  - An illegal substance or legal substance for which pupils are trading e.g. alcohol, cigarettes, prescription drugs.
  - Stolen items
  - Fireworks
  - Pornographic images
  - Tobacco and cigarette papers
  - Any article that the member of staff reasonably suspects has been, or is likely to be, used:
    - to commit an offence to cause personal injury to, or damage to the property of, any person
  - Headteachers and authorised staff can search for any item banned by the academy rules and Code of Conduct.
- 17.4. In the DfE January 2018 guidance, *Searching, screening and confiscation Advice for headteachers, school staff and governing bodies*, it clearly states on page 11 that:
- *The member of staff can use their discretion to confiscate, retain and/or destroy any item found as a result of a 'with consent' search so long as it is reasonable in the circumstances. Where any article is reasonably suspected to be an offensive weapon, it must be passed to the police.*
  - *Staff have a defence to any complaint or other action brought against them. The law protects members of staff from liability in any proceedings brought against them for any loss of, or damage to, any item they have confiscated, provided they acted lawfully.*
- 17.5. Staff who are trained and authorised by the Headteacher to undertake searching must adhere to this guidance and will be supported with any queries by the Regional System Leader for Safeguarding.
- 17.6. **Informed consent:** The Academy staff may search a pupil with their consent for any item. Appropriate consideration will be given to factors that may influence the pupil's ability to give consent. If the pupil refuses, sanctions will be applied in accordance with this policy and in full adherence with statutory guidance.
- 17.7. **Searches without consent:** In relation to prohibited items, as defined below, the Headteacher, and staff authorised by the Headteacher, may search a pupil or a pupil's possessions, without their consent, where they have reasonable grounds for suspecting that a pupil has a prohibited item in their possession. Searches without consent will only be carried out on the Academy premises or where the member of staff has lawful control or charge over the pupil, for example, on Academy trips.
- 17.8. **Searches generally:** If staff believe a pupil is in possession of a prohibited item, it may be appropriate for an authorised, trained member of staff to carry out:
- A search of outer clothing; and/or
  - A search of Academy property, e.g. pupils' lockers or desks; and/or,
  - A search of personal property (e.g. bag or pencil case within a locker).
- 17.9. Searches will be conducted in such a manner as to minimise embarrassment or distress.

- 17.10. Any search of a pupil or their possessions will be carried out in the presence of the pupil and another member of staff following social distancing guidance and ensure a 2 metre distance between a pupil and staff member.
- 17.11. Where a pupil is searched, the searcher and the second member of staff present will be the same gender as the pupil, or in the case of a transgender pupil, they may select the gender of the searcher. However, by exception, where a member of staff reasonably believes that there is a risk that serious harm will be caused to a person if the search is not conducted immediately and it is not reasonably practicable to summon another member of staff, a search may be conducted by a member of the opposite sex without a witness present.
- 17.12. When an electronic device, such as a mobile phone, has been seized by a member of staff, the staff member can examine data or files and delete these where there is good reason to do so. There is no need to have parental consent to search through a young person's mobile phone. In establishing good reason to do so Headteachers and authorised staff must refer to the categories stated in the DfE 2018 statutory guidance for Searching, Screening and Confiscation.
- 17.13. If an electronic device that is prohibited by the Academy Code of Conduct has been seized, and the member of staff has reasonable grounds to suspect that it contains evidence in relation to an offence, they must give the device to the police as soon as possible.
- 17.14. Material that is suspected to be relevant to an offence should not be deleted before giving the device to the police. If the staff member does not find any material that they suspect is evidence in relation to an offence and decides not to give the device to the police, they can decide whether it is appropriate to delete any files or data from the device, or whether to retain the device as evidence of a breach of academy discipline.

## **Section B: Exclusions**

### **Introduction to the use of and procedure for Fixed Term (FTE) and Permanent Exclusions (PEX)**

#### **18. Aims**

- 18.1. All parties involved in exclusions, including Headteachers, parents, Regional Directors, Regional System Leaders, Ambassadors and Independent Review Panels, must have regard to statutory guidance. The following paragraphs explain rights and responsibilities around exclusion to ensure that all exclusion proceedings at E-ACT are conducted in a fair and just manner, with appropriate notice to all, full participation of relevant parties, and within the statutorily designated timelines.

#### **19. Fixed-Term and Permanent Exclusions**

- 19.1. Exclusion can only be for a breach of an academy's behaviour policy, which is widely published to all pupils and parents, including on the academy's website.
- 19.2. There are two types of exclusion: fixed-term (or fixed-period) and permanent. There is a limit of 45 school days in an academic year for fixed-term exclusions. The law does not

allow for 'converting' a fixed-term exclusion into a permanent exclusion. The academy may issue a fixed-term exclusion pending investigation and, where further evidence has come to light, issue a further fixed-term exclusion to begin immediately after the first exclusion ends; or a permanent exclusion to begin immediately after the end of the fixed-term exclusion.

- 19.3. Permanent exclusions may only be in response to persistent breaches of the academy's behaviour policy or for a 'one-off' serious breach of the behaviour policy, where allowing the pupil to remain in school will be detrimental to the education and welfare of the pupil and/or others at the academy.
- 19.4. On the sixth day of an exclusion, the academy (or local authority, in the event of a permanent exclusion) must arrange suitable full-time education for any pupil of compulsory school age. Where a pupil receives consecutive fixed-term exclusions, these are regarded as a cumulative period of exclusion for the purposes of this duty.
- 19.5. The Headteacher must notify the Regional Education Director, National Education Director and CEO of their decision to permanently exclude.
- 19.6. A panel must review permanent exclusions and any fixed-term exclusions which result in the pupil being excluded for more than 15 school days (singly or cumulatively) within one term. Schools are responsible for recording exclusions on the academy's relevant Management Information System (MIS) in a timely manner and keeping careful track of fixed-term exclusions that total more than 15 days in a term.
- 19.7. An E-ACT pupil disciplinary exclusion panel must include the Regional Education Director and two E-ACT Ambassadors, from the academy or as necessary the region. The Regional Coordinator is responsible for arranging panel members. Ambassadors who sit on these exclusion panels must have completed the relevant training prior to the hearing.
- 19.8. If an exclusion requires review (i.e. fixed-term exclusions totaling more than 15 days in a term or permanent exclusions), academies should also notify their Regional Coordinators as soon as the exclusion is issued, in order to allow the timely arranging and clerking of the required review meetings. Permanent exclusions must also be reported to the local authority immediately to ensure the local authority will be able to fulfil its duty to provide alternative educational provision from the sixth day of the exclusion.
- 19.9. Exclusions must be reported to the Regional Education Director each month and the Regional Education Director must keep the National Director of Education fully updated.

## **20. The Headteacher's role in exclusions**

- 20.1. Only the Headteacher or acting Headteacher may exclude a pupil. All Headteachers must avoid 'informal' or 'unofficial' exclusions (e.g. sending a child off-site for a 'cooling down' period). However, a pupil whose behaviour at lunchtime is disruptive may be excluded from the school premises for the duration of the lunchtime period. This is counted as a half day fixed term exclusion. Where a pupil has received multiple exclusions or is approaching the legal limit of 45 school days of fixed-term exclusion in an academic year, the Headteacher should consider whether exclusion is providing an effective sanction.
- 20.2. Exclusions are illegal if they occur for non-disciplinary reasons, such as:

- additional needs or a disability that the academy feels it is unable to meet;
  - lack of academic attainment/ability;
  - the actions of a pupil's parent(s); or
  - failure of a pupil to meet specific conditions before reinstatement.
- 20.3. Permanent exclusion should only be used as a last resort where all alternatives have been considered and all strategies to change behaviour have failed. It must be demonstrated that allowing the pupil to remain in the academy would seriously harm the education or welfare of the pupil or others in the academy.
- 20.4. Where an excluded pupil has Special Educational Needs or Disabilities (SEND) or is on the SEN register, it must be demonstrated that the academy has regard for the SEN Code of Practice 2015 and has provided extensive means of support to help meet the pupil's needs.
- 20.5. Early intervention to address underlying causes of disruptive behaviour should include an assessment of whether appropriate provision is in place to support any SEN or disability that a pupil may have.
- 20.6. Any intervention strategies should be discussed with and involve the pupil's parents.

## **21. Review of the Decision to Exclude**

- 21.1. In all cases of permanent exclusion and fixed-term exclusions amounting to over 15 days in a term (cumulatively or singly), the decision of the Headteacher must be reviewed by the Regional Education Director.
- 21.2. Subject to the availability of a Regional Director and E-ACT Ambassadors, review meetings should be held within a period of 15 days from the date of the exclusion. It is important that the Regional Coordinators are advised of the exclusion without delay and the Headteacher plans for paperwork to be prepared immediately. The exclusion paperwork must set out in detail the reasons for exclusion and provide evidence of the support already offered to the pupil. The Regional System Leader for Safeguarding will quality check all paperwork for exclusion packs.
- Fixed-term exclusions totaling five or fewer school days (or 10 or fewer lunch-times or half days) in any one term must be reported on the MIS. The Regional Education Director must consider any representations made by parents but cannot direct reinstatement and is not required to arrange a meeting with parents.
  - If an exclusion means that a pupil will miss a public exam, the panel should try to meet before the date of the exam. If this is not practicable, the Regional Education Director may use the emergency powers for Chair's action to review the exclusion alone.
  - For fixed-term exclusions of 6 to 15 school days, if the parent(s) make representations, the panel must consider within 50 school days of receiving the notice of exclusion whether the excluded pupil should be reinstated. In the absence of any representations from the parents, the panel is not required to meet and cannot direct the reinstatement of the pupil.
  - For fixed-term exclusions that singly or cumulatively total more than 15 days in one term, and for permanent exclusions, the panel must hold a formal hearing within 15 school days, whether or not the parent(s) make representations. The review panel may confirm the exclusion or

direct reinstatement of the pupil. There is no legal option to impose a lesser sanction, i.e. to commute a permanent exclusion to a fixed term one. The review panel may direct reinstatement for any pupils excluded for a fixed-term of more than five days or pupils who would miss a public exam or permanently excluded. If the pupil is to be reinstated, a re-integration programme should be planned with the academy, including a meeting with parents. If reinstatement is not practicable – because the pupil is already back in school or because the parent does not want it – the review panel must consider the representations made by the academy and parent(s) and decide whether or not the exclusion was justified. The decision should then be included in the pupil's record. After the panel hearing, the clerk will inform the parties in writing about the result, with reasons for the decision. Decisions are communicated as soon as possible and every attempt is made to do this within 5 working days.

## **22. Principles of Natural Justice**

- All factual determinations are based on a balance of probabilities, both by Headteachers and at any subsequent review. This means that the Headteacher/reviewing panel should accept that something happened if it is more likely that it happened than that it did not happen. In making their decisions to exclude, Headteachers must ensure that their decisions are fair, based on the facts of the incident and do not include any elements of discrimination.
- Members of the panel should be impartial, unprejudiced, have taken no previous part in the specific case, and have no personal or school interest in its result. Principals should not discuss individual exclusions with members of their governing body as cases may be referred to the governing body for review.
- Parent/carer(s) should be informed of the case put forward by the academy and have an opportunity to challenge it.
- Both parties should be allowed to present their case without unreasonable interruption. Aggressive, repetitive or unnecessarily over-long presentations hinder the effectiveness of the review process and the Chair will retain discretion to curtail any such presentation.
- Parent/carer(s) should be able to bring a friend or adviser with them. An effective meeting, however, will not be able to accommodate large groups of people and the Chair retains ultimate discretion as to the attendance of invited parties beyond a reasonable number.
- All documents to be used in evidence should be distributed to all parties at least five working days before the hearing. If new material is introduced at the hearing, all parties must have time to consider it. Should such material be voluminous, the Chair has the discretion to adjourn the meeting to allow proper review.
- No party to the hearing should be in the presence of the panel unless the other party is also present. Every party should feel that they have had a full opportunity to present their case and have it duly considered. 'Standard of Evidence for Panel Meetings Guidance' has been issued for Headteachers and E-ACT Ambassadors to clarify the legal standards for review and the high quality of documentary evidence required for panel meetings. Headteachers and staff members delegated with responsibility for investigating breaches of behaviour policies must refer to this guidance. There should be no delays in gathering evidence and witness statements, both for reliability of recall and given the legal obligation to review exclusions within short statutory deadlines.

## **23. Independent Review Panel (IRP)**

- 23.1. If a permanent exclusion is upheld, parent/carers(s) must be told of their right to seek an independent review of the decision reached by the panel and the deadline for seeking such a review. They also have the right to request the attendance of a SEND expert at the Independent Review Panel meeting.
- 23.2. Decision letters sent by the Regional Co-ordinator to the parent/carer(s) will include these details of the right of independent review. The parent/carer(s) have 15 school days (from the date of receipt of the review panel's decision) to seek an independent review. Within 15 school days of such a request, the Regional Co-ordinator will engage the services of an external clerking agency to arrange and clerk the Independent Review Panel. The independent review is normally attended by the Headteacher, lead academy staff member on the case, and Chair of the original review panel. The clerk of the original panel may attend but plays no formal part in proceedings. Where the parent(s) has legal representation or it is considered appropriate on behalf of the academy, it may be agreed that the academy should also have legal representation. This will be arranged by E-ACT.
- 23.3. The Independent Review Panel cannot direct a governing body to re-instate a pupil. It may:
- a) uphold the exclusion;
  - b) recommend that the original panel reconsider its decision; or
  - c) quash the original panel's decision and direct the panel to reconsider its decision.
- 23.4. In the latter case, the Independent Review Panel will then be expected to order that the academy must make an additional payment of £4,000 if it does not offer to reinstate the pupil.

## **24. Parallel police proceedings**

- 24.1. The regional governance team led by the Regional Education and Regional Operations Directors have no power to delay a hearing beyond the statutory time limit because of police proceedings. If a permanent exclusion is upheld in these circumstances, the parent has 15 days to request independent review in the normal way.

## **25. Other relevant legislation**

- 25.1. The principal legislation, guidance and regulations to which this guidance relates is:
- Education Act 2002, as amended by the Education Act 2011;
  - School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012;
  - Education and Inspections Act 2006;
  - Education Act 1996;
  - Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007, as amended by the Education (Provision of Full-Time Education for Excluded Pupils) (England) (Amendment) Regulations 2014;
  - SEND Code of Practice: 0 to 25 years (updated 1 May 2015);
  - Special Educational Needs and Disability Regulations 2014 (Part 4); Equality Act (2010).