

# Horniman Primary School



## Exclusions Policy

This policy was agreed by the governing body on:  
(and supersedes all previous policies relating to this area)

Signed:	Chair of Governors
Implemented:	December 2018
Reviewed	Every 3 years
Review date:	November 2024
Author:	Sofie Hashmi Acting Deputy Headteacher

## Policy Statement

*The Staff and Governors of Horniman Primary School are committed to achieving high standards of discipline and behaviour in our school.*

*The school's Behaviour Policy sets out clearly our aims and objectives and the code of conduct we expect from our pupils. Through the Behaviour Policy, we aim to promote among pupils, self-discipline, a respect for authority, care and respect for others and an understanding that good behaviour is rewarded but there will be consequences for bad behaviour.*

*Horniman Primary School seeks to avoid exclusions and they are extremely rare in this school. They take place only for very serious incidents or when other strategies have been tried and have failed over time. In most cases exclusion will be the last resort after a range of measures have been tried to improve the pupil's behaviour and after a range of strategies have been put in place to address the inappropriate behaviour which may lead to exclusion.*

### 1. Aims

Our school aims to ensure that:

- The exclusions process is applied fairly and consistently
- The exclusions process is understood by governors, staff, parents and pupils
- Pupils in school are safe and happy
- Pupils do not become NEET (not in education, employment or training)

### 2. Legislation and statutory guidance

This policy is based on statutory guidance from the Department for Education (DfE 2017): [Exclusion from maintained schools, academies and pupil referral units \(PRUs\) in England](#).

It is based on the following legislation, which outline schools' powers to exclude pupils:

- Section 52 of the [Education Act 2002](#), as amended by the [Education Act 2011](#)
- [The School Discipline \(Pupil Exclusions and Reviews\) \(England\) Regulations 2012](#)
- Sections 64-68 of the [School Standards and Framework Act 1998](#)

In addition, the policy is based on:

- Part 7, chapter 2 of the [Education and Inspections Act 2006](#), which looks at parental responsibility for excluded pupils
- Section 579 of the [Education Act 1996](#), which defines 'school day'
- The [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](#)

### 3. Types of exclusion

#### Internal exclusion

An internal exclusion is where a child remains in school but continues their learning away from their classroom and has their breaks away from their peers. In some situations, this is a more appropriate way of working with a child to help them to address any issues.

#### Fixed period exclusion

A fixed period exclusion is where a child is temporarily removed from their school. They can only be removed for up to 45 school days in one school year, even if they change school.

If a child is excluded for a fixed period, the school will set and mark work for the first 5 school days. If the exclusion is longer than 5 school days, the school will arrange suitable full-time education from the sixth school day, e.g. at a pupil referral unit.

## **Permanent exclusion**

A permanent exclusion means a child is expelled from their school. Following a permanent exclusion, the local authority must arrange full-time education from the sixth school day. Permanent exclusion is a very serious matter. Only the Headteacher (Deputy Headteacher if the Headteacher is out of school) can permanently exclude a pupil.

## **4. The decision to exclude**

Fixed term and permanent exclusions are used when other strategies and sanctions have not been effective over time or when there has been a single clear and serious breach of discipline.

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

- Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked
- Allow the pupil to give their version of events
- Consider if the pupil has special educational needs (SEN) and whether appropriate measures have been put in place

[Appendix 1 sets out the process to be followed in considering whether to exclude a pupil from school.](#)

The Headteacher cannot exclude a pupil on the grounds of:

- a) poor academic performance
- b) lateness or truancy
- c) punishing a pupil for the behaviour of their parents
- d) protecting victims of bullying by sending them home

A fixed term exclusion will be used when persistent inappropriate behaviour continues over time or if a one-off serious offence is committed. For example:

- Violence towards an adult or child (which is deliberate and/or causes serious injury)
- Swearing at an adult
- Racist verbal abuse
- Sustained bullying (see Anti-Bullying Policy)

[Appendix 2 sets out the process and considerations in a fixed term exclusion](#)

The Headteacher may decide to permanently exclude a pupil only when they are sure that:

- The pupil has seriously breached the school's Behaviour Policy; and
- If the pupil remains in school, it would seriously harm the education or welfare of the pupil or others in the school.

[Appendix 3 sets out the process and considerations in a permanent exclusion](#)

### **Definition**

For the purposes of exclusions, school day is defined as any day on which there is a school session. Therefore, INSET or staff training days do not count as a school day

## 5. Roles and responsibilities

### 5.1 The Headteacher

#### Informing parents

The Headteacher will immediately provide the following information, in writing, to the parents of an excluded pupil:

- The reason(s) for the exclusion
- The length of a fixed-term exclusion or, for a permanent exclusion, the fact that it is permanent
- Information about parents' right to make representations about the exclusion to the governing board and how the pupil may be involved in this
- How any representations should be made
- Where there is a legal requirement for the governing board 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 Headteacher will also notify parents by the end of the afternoon session on the day their child is excluded that for the first 5 school days of an exclusion, or until the start date of any alternative provision where this is earlier, parents are legally required to ensure that their child is not present in a public place during school hours without a good reason. Parents may be given a fixed penalty notice or prosecuted if they fail to do this.

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

- The 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, where 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 this information on alternative provision is not reasonably ascertainable by the end of the afternoon session, it may be provided in a subsequent notice, but it will be provided no later than 48 hours before the provision is due to start. The only exception to this is where alternative provision is to be provided before the sixth day of an exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent.

#### Informing the governing body and Local Authority

The Headteacher will immediately notify the governing body and the local authority (LA) of:

- A permanent exclusion, including when a fixed-period exclusion is made permanent
- Exclusions which would result in the pupil being excluded for more than 5 school days (or more than 10 lunchtimes) in a term
- Exclusions which would result in the pupil missing a public examination

For a permanent exclusion, if the pupil lives outside the LA in which the school is located, the Headteacher will also immediately inform the pupil's 'home authority' of the exclusion and the reason(s) for it without delay.

For all other exclusions, the Headteacher will notify the governing board and LA once a term.

### 5.2 The governing body

Responsibilities regarding exclusions is delegated to the Governing Body Panel consisting of at least 3 governors.

The Governing Body Panel has a duty to consider the reinstatement of an excluded pupil (see section 6).

Within 14 days of receipt of a request, the governing body will provide the secretary of state and the LA with information about any exclusions in the last 12 months.

For a fixed-period exclusion of more than 5 school days, the governing body will arrange suitable full-time education for the pupil. This provision will begin no later than the sixth day of the exclusion.

### **5.3 The Local Authority (LA)**

For permanent exclusions, the LA is responsible for arranging suitable full-time education to begin no later than the sixth day of the exclusion.

## **6. Considering the reinstatement of a pupil**

The Governing Body Panel will consider the reinstatement of an excluded pupil within 15 school days of receiving the notice of the exclusion if:

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

If requested to do so by parents, the Governing Body Panel consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion if the pupil would be excluded from school for more than 5 school days, but less than 15, in a single term.

Where an exclusion would result in a pupil missing a public examination, the Governing Body Panel will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the chair of the governing board (or the vice-chair where the chair is unable to make this consideration) will consider the exclusion independently and decide whether or not to reinstate the pupil.

The Governing Body Panel 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 Governing Body Panel will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the Headteacher followed their legal duties. They will decide whether or not a fact is true 'on the balance of probabilities', which differs from the criminal standard of 'beyond reasonable doubt', as well as any evidence that was presented in relation to the decision to exclude.

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

The Governing Body Panel will notify, in writing, the Headteacher, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the Governing Body Panel decision will also include the following:

- The fact that it is permanent
- Notice of parents' right to ask for the decision 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 any application should set out the grounds on which it is being made and that, where appropriate, reference to how the pupil's SEN are considered to be relevant to the exclusion
  - That, regardless of whether the excluded pupil has recognised SEN, parents have a right to require the LA 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 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
- That if parents believe that the exclusion has occurred as a result of discrimination, they may 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. A claim of discrimination made under these routes should be lodged within 6 months of the date on which the discrimination is alleged to have taken place

[Appendix 4 sets out the process to appeal against an exclusion](#)

## 7. An independent review

If parents apply for an independent review, the LA will arrange for an independent panel to review the decision of the governing body not to reinstate a permanently excluded pupil.

Applications for an independent review must be made within 15 school days of notice being given to the parents by the Governing Body Panel of its decision to not reinstate a pupil.

A panel of 3 or 5 members will be constituted with representatives from each of the categories below. Where a 5-member panel is constituted, 2 members will come from the school governors' category and 2 members will come from the Headteacher category.

- A lay member to chair the panel who has not worked in any school in a paid capacity, disregarding any experience as a school governor or volunteer
- School governors who have served as a governor for at least 12 consecutive months in the last 5 years, provided they have not been teachers or Headteachers during this time
- Headteachers or individuals who have been a Headteacher within the last 5 years

A person may not serve as a member of a review panel if they:

- Are a member of the LA, or governing body of the excluding school?
- Are the Headteacher of the excluding school, or have held this position in the last 5 years
- Are an employee of the LA, or the governing body, of the excluding school (unless they are employed as a Headteacher at another school)
- Have, or at any time have had, any connection with the LA, school, governing body, parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality
- Have not had the required training within the last 2 years (see appendix 1 for what training must cover)

A clerk will be appointed to the panel.

The independent panel will decide one of the following:

- Uphold the governing body's decision
- Recommend that the governing body reconsiders reinstatement
- Quash the governing body's decision and direct that they reconsider reinstatement (only when the decision is judged to be flawed)

The panel's decision can be decided by a majority vote. In the case of a tied decision, the chair has the casting vote.

[Appendix 5 sets out the training requirements for an independent panel](#)

## 8. 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 exclusion 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 governing body will wait until that review has concluded before removing a pupil's name from the register.

Where alternative provision has been made for an excluded pupil and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.

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

## 9. Returning from a fixed-term exclusion

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

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

- Agreeing a behaviour contract
- Putting a pupil 'on report'
- Agreeing a reduced/specialised timetable

## 10. Monitoring arrangements

The Headteacher monitors the number of exclusions every term and reports back to the **governors**. They also liaise with the local authority to ensure suitable full-time education for excluded pupils.

This policy will be reviewed by the Headteacher every three years. At every review, the policy will be shared with the governing body.

## 11. Links with other policies

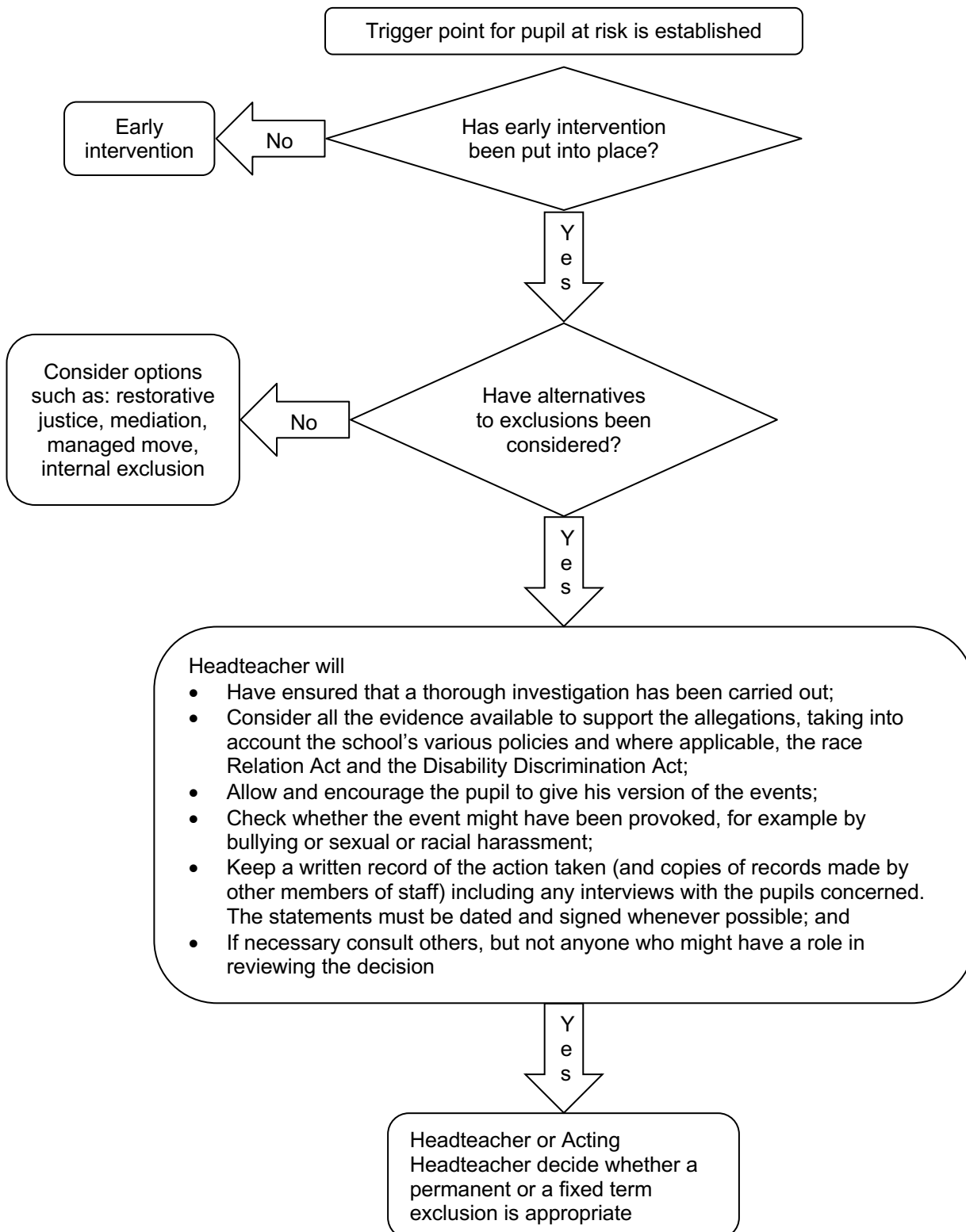
This exclusions policy is linked to our:

- Behaviour policy
- Anti-bullying policy
- SEND policy and information report
- Equalities and Diversity policy

## Appendix 1: Before making the decision to exclude

Before making the decision to exclude a child (Except in situations where there is an immediate threat to safety), the Headteacher will follow the following four step procedure:

### 1. Good practice before considering exclusion





## Appendix 2: Consideration of a fixed-term exclusion

**Decision:** Headteacher or acting Headteacher takes the decision to exclude a pupil for a fixed period.

**Contact parent:** The Headteacher should ensure that a parent/carer has been contacted immediately, ideally by telephone and is available, if appropriate, to arrange collection and supervision of the pupil. The child's welfare must always be the prime consideration.

**Lunchtime exclusion:** Pupils who are disruptive during the lunch time may be excluded just for the duration of the lunch time. Lunch time exclusion will count as half a day for statistical purpose and for parents to make representation but are not counted in the school's 6<sup>th</sup> day duty to provide full-time education.

**Exclusion during morning session:** the exclusion takes effect from the afternoon session, notice must be given to the parent before the start of the afternoon session.

**Exclusion during afternoon session:** If the exclusion takes effect from the next school day, notice to the parent must be given before the start of that school day. If the exclusion takes place from that afternoon, the notice must be given at the end of the afternoon session

**Written notice:** The Headteacher must give a written notice to the parents informing them of:

- The precise period and the reasons of the exclusion;
- The parent's duties during the first five days;
- The parents right to make representation to the Governing Body and how the pupil may be involved in this;
- The person the parent should contact if they wish to make such representation;
- The arrangement made by the school to set and mark work for the pupil during the initial 5 days of the exclusion;
- If relevant, the school day on which the pupil will be provided with full-time education; and
- If relevant details of a reintegration interview.

The Headteacher must inform the Governing Body if a pupil is being excluded for more than 15 days in any one term. Pupils can be excluded for one or more fixed periods, when they aggregated, do not exceed 45 school days in any one school year.

**Educational provision during the exclusion:**

- The school has a duty to arrange suitable full-time educational provision from and including the 6<sup>th</sup> consecutive day of the exclusion.
- Where a Looked After Child is excluded, provision should be in place from the 1<sup>st</sup> day of exclusion.
- Schools in the former BIP still receiving additional funding should make provision from the first day of exclusion.

**Reintegration interview:**

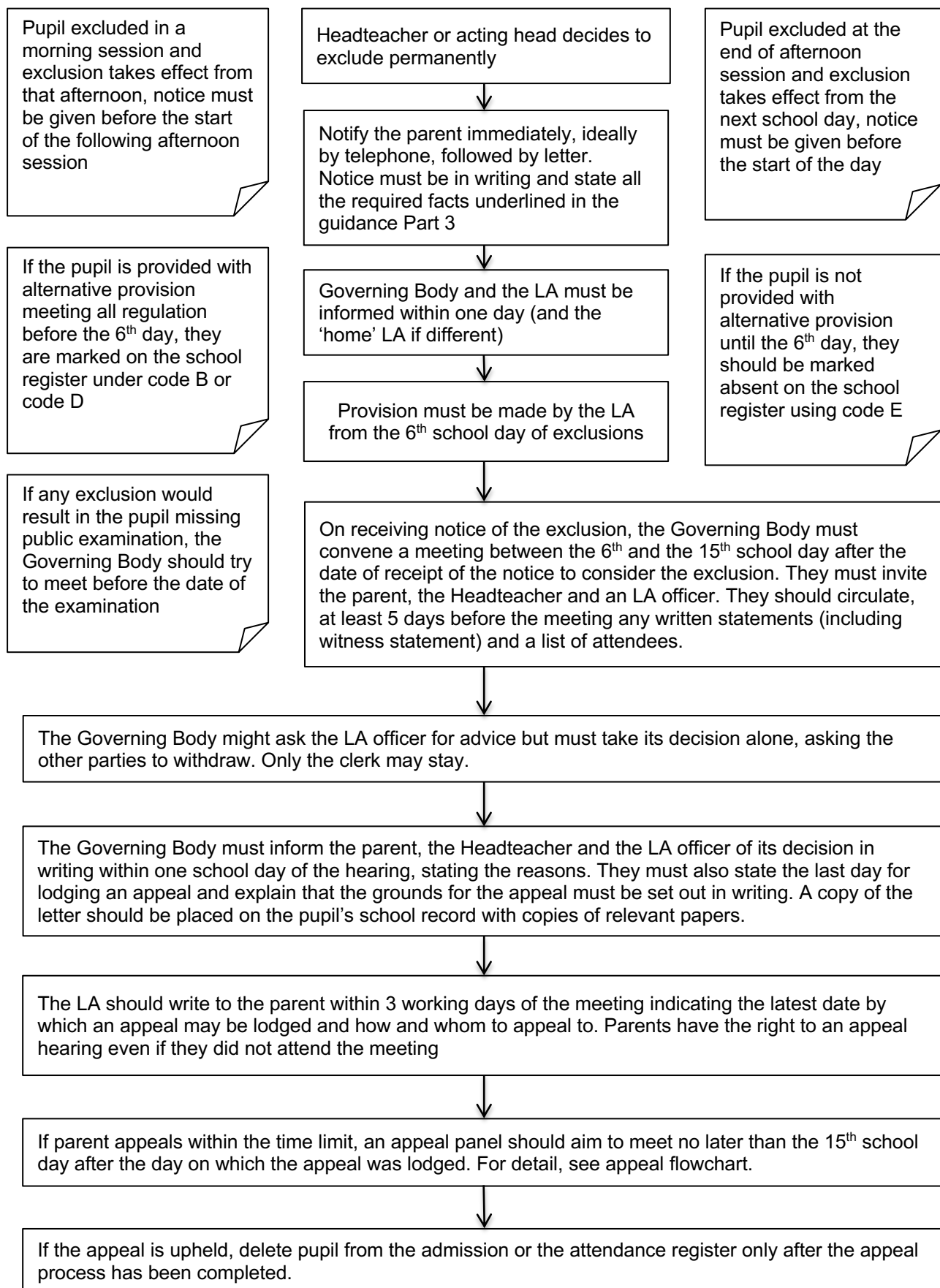
The Headteacher or a senior member of staff MUST arrange and conduct a reintegration interview with a parent and the pupil at the end of the exclusion at a date and time convenient for the parent on the school premises.

The notice for a reintegration interview must be given no later than 6 school days before the date of the interview (it can be combined with the notice of the exclusion).

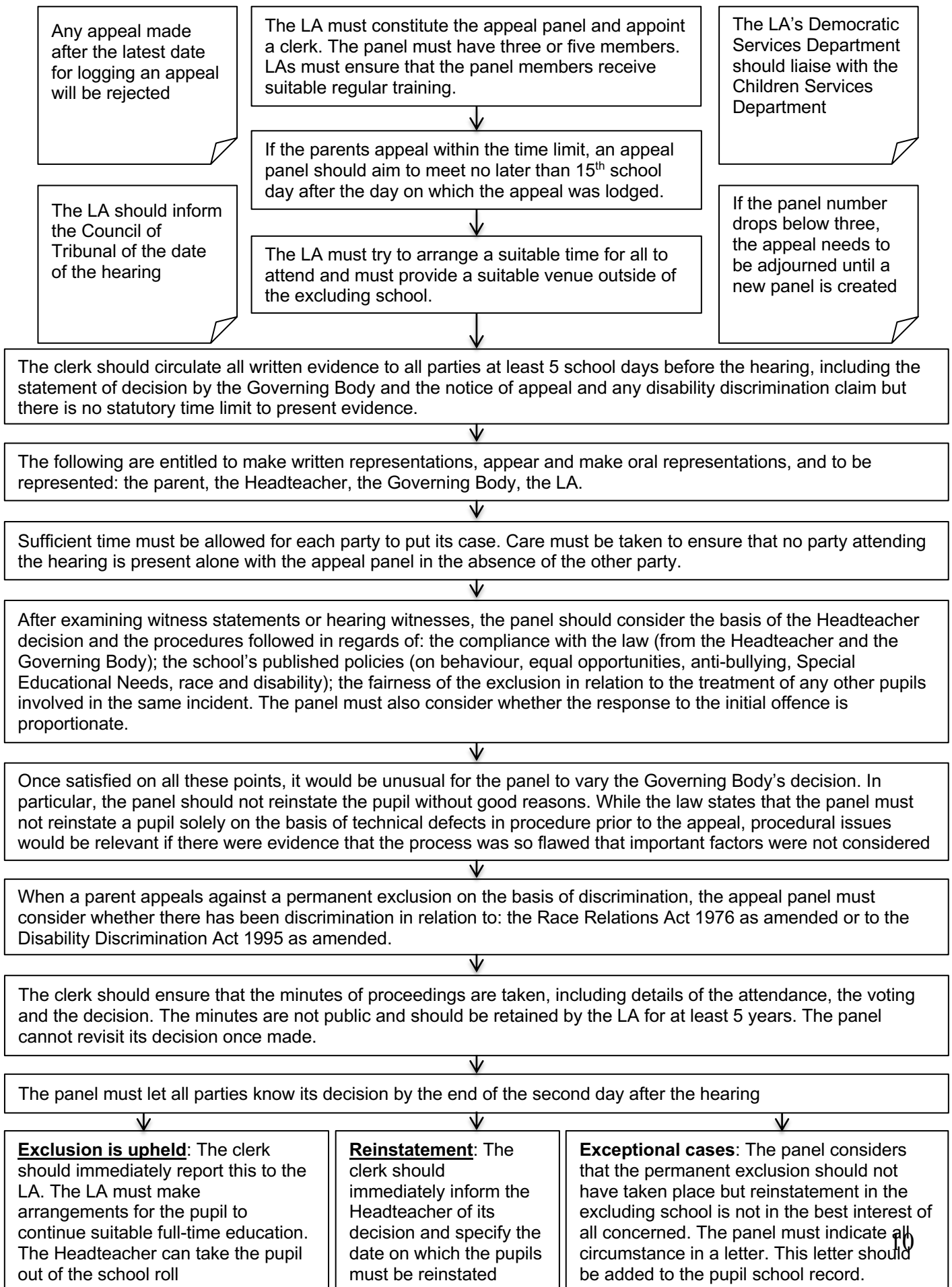
If the parent fails to attend, the school must keep a record of the failure as well as any explanation given as it can be one factor taken into account in the Magistrates' Court when deciding whether to impose a parenting order

If the school or the LA considers that parental influence could be better brought to bear in the behaviour of the pupil, a parenting contract may be offered. If the parent fails to engage with the school or LA in attempting to improve the child's behaviour, the school or LA may consider applying to the Magistrate's Court to compel the parent to comply with certain requirements. See related guidance.

## Appendix 3: Consideration of a permanent exclusion



## Appendix 4: Appeal against exclusion



## Appendix 5: Independent review panel training

The LA must ensure that all members of an independent review panel and clerks have received training within the 2 years prior to the date of the review.

Training must have covered:

- The requirements of the primary legislation, regulations and statutory guidance governing exclusions, which would include an understanding of how the principles applicable in an application for judicial review relate to the panel's decision making
- The need for the panel to observe procedural fairness and the rules of natural justice
- The role of the chair and the clerk of a review panel
- The duties of Headteachers, governing bodies and the panel under the Equality Act 2010
- The effect of section 6 of the Human Rights Act 1998 (acts of public authorities unlawful if not compatible with certain human rights) and the need to act in a manner compatible with human rights protected by that Act