



Behaviour, Anti-Bullying and Exclusions Policy

Document provenance

This policy was approved as follows –

Board/Committee: Education Committee

Date: November 2019

Frequency of review:

Unless there are legislative or regulatory changes in the interim, this policy will be reviewed every two years. Should no substantive changes be required at that point, the policy will move to the next review cycle.

ELT Owner: National Director of Education

Summary of policy:

This policy details what E-ACT determines as good and poor behaviour and the repercussions for the latter. It sets out expectations that all E-ACT Academies should uphold along with academy specific expectations for pupil behaviour and attitudes to learning.

The policy also details the requirements and responsibilities for internal inclusion, as well as fixed and permanent exclusions.

The policy includes the following areas of guidance:

- Anti-bullying information including sanctions for pupils being found to bully another (peer on peer abuse)
- Preventing extremism and radicalisation
- Use of reasonable force
- The use of internal inclusion rooms.

Summary of changes at last review:

- Legal framework added
- Anti-bullying, peer-on-peer abuse and exclusions have been subsumed into this policy.

Related policies:

- Trips and Visits Policy

Behaviour, anti-bullying and exclusions policy.

Section A: Behaviour and anti-bullying

1. Introduction and purpose

- 1.1. When we implement this policy, we encourage every pupil 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;
 - The Academy may use a restorative approach to solve the problem between pupils however the victim will select whether this takes place or not;
- 1.2. The Academy will inform parents about what has happened for all serious incidents so that parents can give their support. The Academy is responsible for ensuring that this process is managed sensitively taking into consideration the child's needs (including safeguarding).

2. Scope

- 2.1. This policy is applicable to all E-ACT pupils in all academies within the trust or on an E-ACT organised trip. This policy also applies to pupils' conduct outside of any academy of which any academy becomes aware.

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 2010¹. 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 guidance²;
 - Education Act 1996³;
 - School Standards and Framework Act 1998⁴;
 - Equality Act 2010⁵.
 - DfE Exclusion from maintained schools, academies and pupil referral units in England, 2017⁶

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

² [Behaviour and Discipline in Schools guidance](#)

³ [Education Act 1996](#)

⁴ [School Standards and Framework Act 1998](#)

⁵ [Equality Act 2010](#)

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

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 must be determined by the Headteacher and meet guidelines set out by the Trust.

3.5. The Headteacher determines the rules and provision for disciplinary penalties and may, include measures to be taken to regulate the conduct of pupils at a time when they are not on the premises of the Academy and are not under the lawful control or charge of a member of the staff of the Academy e.g. on a trip or visit.

3.6. The imposition of the disciplinary penalty is lawful if the following three conditions are satisfied:

- is not in breach of any statutory requirement and is reasonable;
- the decision was made by any paid member of the staff;
- and the penalty take place on the premises of the Academy, or elsewhere at a time when the pupil was under the lawful control or charge of a member of staff of the Academy.

3.7. The imposition of the penalty is reasonable; the following matters must be considered:

- it is a proportionate punishment in the circumstances of the case;
- consider the pupil's age, and special educational needs the pupil may have; any disability the pupil may have, and any religious requirements affecting them.

4. Policy statement

4.1. As a Trust, E-ACT believes that all members of our Academies should be able to learn in a calm, safe and purposeful environment. The behaviour policy is the foundation for a clear, shared understanding between pupils, teaching staff, support staff, parents/carers, our E-ACT Ambassadors and the Regional Education team.

4.2. Corporal punishment will never be used in any academy in the Trust.

4.3. The Academies' rules, their rewards and sanctions shall also be used, in appropriate circumstances, to regulate the conduct of pupils when they are away from the Academies on trips/visits or on their way to and from their respective Academies each day.

4.4. Headteachers will be expected to remind all pupils about good behaviour and conduct during academy holidays when pupils are ambassadors for the academy and the Trust.

4.5. Each academy is expected to publish a comprehensive Code of Conduct setting out their rewards, sanctions and expectations for good conduct, behaviour and good attitudes to learning are. This Academy specific Code of Conduct is outlined in Appendix 1 of this policy.

5. Measures to promote pupils' self-discipline and proper regard for authority.

5.1. E-ACT expects all academies to set out and publish measures to promote self-discipline and regard for authority. This includes:

- Looking after Academy property including books or equipment so that they are graffiti free
- Having a planner with them at all times and all other equipment necessary for learning;
- Wearing their uniform correctly and responsibly;
- Being reminded by all staff about Academy's rules and expectations and ask them to consider and reflect on their own conduct;
- Being taught by staff to be polite, respectful, and to regulate their own and others' behaviour throughout the day;
- Being taught how to behave and conduct themselves through lessons, form time and assemblies;
- Completing educational tasks such as homework, work in lessons and work when pupils are withdrawn from lessons or excluded from school.
- Any other reasonable, academy specific, expectations set out by each academy.

5.2. To have regard for authority, the Academy will not accept the following behaviour:

- Physical assaults on staff, visitors or other pupils;
- 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.
- Behaviours that fall short of expectations for good behaviour set out in appendix 1

6. Bullying Behaviour

6.1. 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.

6.2. 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.

6.3. Types of bullying may be:

- Physical: including, hitting, kicking, pushing people around, spitting; or taking, damaging or hiding possessions, barging, hurting, stamping;
- 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;
- 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;
- 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.

6.4. **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. If such conduct persists

the Headteacher may decide to hold a meeting with parents and consider more serious sanctions such as fixed term exclusions. Permanent exclusion could be an option for persistent bullying but should only be used as a last resort where all alternatives have been considered and all strategies to change behaviour have failed.

6.5. **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.

6.6. Bullying behaviour may also be regarded as threatening behaviour or harassment which can be either a criminal offence or a civil wrong. 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.

7. Initial complaint about a bullying incident - the process to follow

7.1. 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 full and thorough investigation must be carried out during and the investigating member of staff must:
 - speak with, and take notes from, the alleged bully as soon as possible
 - 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?

7.2. 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.
- 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:

- 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;
- A disciplinary sanction against the bully, in accordance with the Academy's behaviour and discipline guidance. In a very serious case or a case of persistent bullying, a pupil may be permanently excluded;
- Action to break up a "power base";
- Moving either the bully or victim to another class after consultation with the pupil his/her parents and the relevant staff;
- Involving Children's Social Care or the police.

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

8. Rewarding good behaviour

8.1. As a Trust we believe that rewards can be more effective than punishment in motivating pupils. 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
- Assembly/form time awards and recognition
- Reward days/time e.g. golden time, trips to leisure places such as adventure theme parks.

9. Poor behaviour: use of disciplinary sanctions

9.1. 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.

9.2. The use of sanctions must always be reasonable and proportionate.

9.3. 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.

9.4. The following range of disciplinary sanctions that may be implemented as appropriate:

- Behaviour logs
- Detention
- Fixed-term exclusion
- Taking points away, class dojos taken away, rewards removed

- Verbal warning/reprimand
- Extra work or repeating unsatisfactory work
- Loss of privileges
- Missing break time
- School-based community service such as litter picking
- Regular reporting to a place or person.

9.5. In all cases of misconduct, including those outside of the Academy, the Headteacher will consider whether the police or the local authority's most appropriate anti-social link should be notified of the disciplinary action taken. The police will always be informed where the pupil's behaviour is criminal or poses a serious threat to a member of the public.

10. Use of internal inclusion/exclusion rooms, isolation areas, reflection spaces and areas to improve pupil behaviour outside of the classroom.

10.1. 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.

10.2. Each affected pupil must be subject to a personal behaviour plan where the following is outlined:

- Reasons and rationale for his or her removal from normal lessons
- Length and period of removal
- Strategies and activities the academy will be using during the placement to ensure his/her behaviour is modified and improves.

10.3. Pupils should 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.

10.4. 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.

11. Enforcement of a detention outside academy timetabled sessions.

11.1. Teachers have a power to impose detention outside school hours to pupils under 18 years of age.

11.2. Each academy must make clear to pupils and parents that detention is used as a sanction.

- 11.3. Each academy may give detention on any school day, weekends (except preceding a half term or term break); INSET days.
- 11.4. The Headteacher will decide which staff may give detentions to pupils.
- 11.5. Lunchtime detentions must allow pupils time to drink, eat and go to the toilet.
- 11.6. The Academy will consider the safety of the pupil coming to and from a detention e.g. after school in the dark. It will also consider and transport and travel arrangements.

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. Incidents are reported to the Regional Education Director as a minimum every six weeks.
- 12.3. 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.
- 12.4. Each academy may use a restorative approach to solve the problem between pupils but it is the victim who will select whether this takes place or not.
- 12.5. 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. Malicious allegations against staff

- 13.1. Where a pupil makes an accusation against a member of staff and the accusation is shown to have been deliberately invented or malicious, the Headteacher will consider whether to take disciplinary action in accordance with this policy. This may include a referral to the police to consider if action might be appropriate against the accused.
- 13.2. Where such an allegation is made, appropriate support will be provided to the member(s) of staff affected.

14. Use of reasonable force

- 14.1. Any use of force by staff will be reasonable and proportionate.
- 14.2. 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, or
 - Prejudicing the maintenance of good order and discipline at the Academy
- 14.3. 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. Force is never used as a form of punishment. We will not inform parents of any incidents that are of a low level nature such as basic low level guided walking or a physical barrier preventing access to or from a physical space without restraint. We 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.

15. Searching, Screening and Confiscation

- 15.1. Headteachers and staff authorised by them have a statutory power⁷ to search pupils or their possessions, without consent, where they have reasonable grounds for suspecting that the pupil may have a prohibited item. 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.
- 15.2. 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.

⁷ <https://www.gov.uk/government/publications/searching-screening-and-confiscation>

- 15.3. 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.*
- 15.4. Staff who trained and authorised by the Headteacher to undertake searching adhere to this guidance and will be supported with any queries by the Regional System Leader for Safeguarding.
- 15.5. **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.
- 15.6. **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.
- 15.7. **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).
- 15.8. Searches will be conducted in such a manner as to minimise embarrassment or distress. Any search of a pupil or their possessions will be carried out in the presence of the pupil and another member of staff.
- 15.9. 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.

- 15.10. 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.
- 15.11. 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.
- 15.12. Material that is suspected to be relevant to an offence should not be deleted before giving the device to the police.
- 15.13. 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 school discipline.

16.Complaints

- 16.1. **Formal complaint:** If the victim or his / her parents are not satisfied with the action taken, they should be advised to make a formal complaint, according to the complaints procedure outlined in the Academy complaints policy.

17.Training

- 17.1. The Trust provides national level training using online packages (Educare). There are a range of modules available for staff to access specific training. In addition, Regional System Leaders provide additional face to face training and briefings for staff.

18.Responsibilities

- 18.1. The following responsibilities apply in relation to this policy:
- Board of Trustees - responsible for approving the policy and ensuring it is adhered to
 - Chief Executive Officer and Executive Leadership Team - responsible for making sure the policy is implemented
 - Regional Education Directors - responsible for ensuring understanding and compliance within the region and oversight of behaviour in academies in their region
 - Headteachers – responsible for ensuring compliance in their Academy
 - All staff – responsible for ensuring compliance in their Academy.

19.Monitoring and compliance

- 19.1. Every complaint or report of poor behaviour or bullying must be entered in the incident book / CPOMs. The Deputy Headteacher should monitor and evaluate

all incidents so that patterns emerging and concerns can be remedied quickly and any changes to the behaviour rewards and sanctions made appropriately.

- 19.2. Incidents are reported to the Regional Education Director as a minimum every six weeks.
- 19.3. Aggregate information on poor behaviour and bullying is reported to the Regional Performance Boards (RPBs) held every term.

Section B: Exclusions

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

- 20.1. 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 2017⁸. As such, this policy supersedes all other academy handbooks or policy statements as relate to exclusions.

21. Aims

- 21.1. 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.

22. Fixed-Term and Permanent Exclusions

- 22.1. 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.
- 22.2. 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.
- 22.3. 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

⁸ <https://www.gov.uk/government/publications/school-exclusion>

education and welfare of the pupil and/or others at the academy.

- 22.4. 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.
- 22.5. The Headteacher must notify the Regional Education Director, National Education Director and CEO of their decision to permanently exclude.
- 22.6. 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' 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.
- 22.7. 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.
- 22.8. If an exclusion requires review (i.e. fixed-term exclusions totalling 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.
- 22.9. Exclusions must be reported to the Regional Education Director each month through the monthly data submissions and the Regional Education Director must keep the National Director of Education fully updated.

23. The Headteacher's role in exclusions

- 23.1. 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.
- 23.2. 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.

23.3. 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.

23.4. 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.

23.5. 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.

23.6. Any intervention strategies should be discussed with and involve the pupil's parents.

24. Duty to inform parents

24.1. 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.

24.2. 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.

25. Review of the Decision to Exclude

25.1. 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.

25.2. 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 totalling 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. 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

26. 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.

27. Independent Review Panel (IRP)

27.1. 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.

27.2. 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.

27.3. 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.

27.4. 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.

28. Parallel police proceedings

28.1. 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.

29. Other relevant legislation

29.1. 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).

Name of E-ACT Academy:
Appendix 1: Code of Conduct

Appendix 2: E-ACT Exclusion Protocol (fixed and permanent)

WHAT	WHEN	WHO
Issuing of a 5 day fixed term exclusion notice to pupil and parents. Letter to be emailed to Regional Education Director and Regional System Leader Safeguarding	Within 24 hours after the decision to exclude is made	Headteacher
Provision of work for the pupil.	During FTE and days 1–5 if a PEX is issued	Headteacher
Contact the Regional System Leader to discuss the case in more detail to ascertain if all avenues of support have been considered and evaluated for impact.	By Day 2 of the FTE	Headteacher
Notify via email, Regional Education Director and Regional System Leader Safeguarding and the National Education Director of the decision to permanently exclude.	By Day 4 of FTE	Headteacher
Decision to permanently exclude - Notify both parents/carers (by phone and in writing) and to the local authority. Letter to be emailed to Regional Education Director, the National Director of Education, the Regional System Leader Safeguarding and Regional Coordinator.	By Day 5 of FTE.	Headteacher
Organising Discipline Committee panel, setting date of Discipline Committee; inviting parents/carers and LA designated officer.	As soon as possible (DC to take place within 15 school days)	Regional Coordinator
Preparation of exclusion pack	From Day 1 of permanent exclusion decision	Headteacher
Exclusion pack to be sent to the System Leader to be quality checked	Within a time frame that allows the SL to check & make changes	Headteacher
Circulation of exclusion pack to Discipline Committee panel and all attendees	5 working days before Committee meeting	Regional Coordinator
Meeting of the Discipline Committee.	Within 15 school days (unless the pupil will miss an exam)	The panel (RED, Ambassadors, Parents RC (Clerk) LA Designated Officer System Leader Safeguarding, Academy leadership
Informing parents and LA of the Discipline Committee's decision	As soon as possible	Chair (via Regional Coordinator)
If PEX decision is upheld, ensuring file and additional information is shared with local authority.	As soon as possible	Headteacher.